App. F. IX-4

Previous References.

Pat 17-26 (1-7)
" 5-26 (1-4)
Legis 18-19 (1-2)

Later References.

1939. (Legis)

File No. 6-39

Serial Nos. 1

PRESERVED

(237)

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. One only

Part ~~X~~ A for July 1939

SUBJECT.

Bill to amend the Patents and Designs Act 1925.

B.B. Shanahan
12.9.40.

Pat-12-34-I 612

General and Revenue Secretariat | Law File No. 121 of 1933. | [App. Form—2

Serial No.

From,

The Director of I & C

No. C1-Pat. 177/33-34 dated 15th May 1934 forg a copy of the letter from Messrs. Remfry Patent and Trade Mark Attorneys, Calcutta - re publication of Patents in Mysore, and requ that the question raised may be examined and reply to be sent to Messrs. Remfry & Sons be indicated

1) This may be sent to the Govt. A.G. for favour of opinion

~~No. 237/33~~
~~dated 22nd. May 1934~~

ISD Pap

2) Forwarded with Compliments to the Govt advocate for favour of opinion.

[illegible]
21/5/34

[illegible] ADVOCATE [illegible]
7. No. 896/No. 34
dt 22.5.34

No. Do/156/33-34
dt 24-5-34

3) Returned with compliments.

The Director of Industries and Commerce in the 2nd para of his letter dated the 14/15th May 1934 refers to the understanding between the Government of India and our Government regarding the supply of the specifications in question. As it is necessary to examine the terms thereof the file may kindly be returned with those references.

4) In the light of the difficulty felt by the Direct or in giving a definite reply, whether it is necessary to take notice of the letter from Messrs. Remfry & So

NOTE—Contn. Sheet.

WD 01536—GPB—7,500—5-4-34

and reply to it at all, is also a point for consider-
ation.

M Raghavan Esqr
Government Advocate.
13.6.1934.

G.O.No.P.237/32 dated 16.6.34

5) Forwarded with compliments to the Director of Industries & Commerce for putting up the reply required by the Govt Advocate & for furnishing remarks regarding the necessity for sending a reply to messrs Remfry.

for Secy to Govt
15.6.34

No. 210.49/33-34
C/-Pol. 175/33-34

6) Returned with compliments with the papers required which are now placed in the file

for Director of Industries & Commerce
26/6/34

G.O.No.P.237/32 dated 27.6.34

7) Returned with Compts to the Govt Advocate.

for Secy to Govt
26/6/34

OFFICE OF THE DIRECTOR OF I. & C.
No. 449 DATE 15.6.34

DEVELOPMENT SECTION
Land
26 JUN 1934

Returned with compliments.

8) Messrs. Remfry & Son only want to know whether the specifications in question are exposed for inspection in the State of Mysore. The Director of Industries and Commerce has reported that they are exposed for inspection according to the understanding between the Indian Government and our Government. The reply therefore must be in the affirmative.

G.O. No. 11/34-35 dt. 4.8.1934

The

(64 - D)

1121

Serial No.

9) The other question which the Director has raised viz., whether such exposure for inspection will amount to publication within the meaning of section 37, does not arise from the letter of Messrs. Remfry and Son, and it does not therefore, seem to be necessary to refer to this point in the reply.

N. Rajeswara Ayyar
Government Advocate.
4-8-1934.

H.

Dft accordingly
sne
4/8/34

11
Dft put up
ISD
6/8

12
for perusal before issue
Dev Sec'y)
sne
6/8/34

13 Mr Jagga Rao may kindly speak
sne

mr.
8.8.34.

14
The file relating to letter No. Pol 785/Patents of 26 SL(4) may be put up for reference
Dev Br)
sne
14/8/34

15
Send the collection Patents S-26 (1-4) as directed. If agreed, the file may be returned to the Secy.
14/8
Law Secy)
16 yes
sne
14/8/34

SECRETARIAT 8924 7 AUG 1934
GEN. & REV. SECRETARIAT 11 AUG. 1934 DEVELOPMENT BRANCH

NOTE—Contn. Sheet.

WD 0246 -GPB—15,000—22-8-32

4

File No. of 193' | General and Revenue Secretariat

~~Question whether~~

17 The Residency letter of 22nd Febr 192, says that the public inspection centre in mysore was closed & that instead the printed copies of all specifications and other publications of the India Patent office were agreed to be sent to the Director of I & C in mysore" on condition that they are made accessible to the public for reference or for copying free of charge. The question whether this would amount to a previous publication which ~~does~~ may disentitle an appln for a Patent under our Regn is one that has to be considered & answered ~~though~~ for the guidance of the Director though it may not form the subject matter of a reply to messrs Rowley & Son.

18 It is no doubt true that no appln for a Patent in mysore can be successful if it is not ~~expected~~ for a new invention and under Sec 3, it is not a new invention if it has been publicly used or been made publicly known in any part of Mysore, before the date of the appln. Under Sec 7, any use or publication of the invention during the period between the date of appln & the date of sealing ~~the~~ such patent shall not prejudice the patent

Serial No.

to be granted.

19. Now the point is which is to be taken as the date of appl. for a patent in Mysore in respect of an invention for which a patent has already been granted in British India. I think that of the under sec 75 of the Patents Rep. if there is a reciprocal arrangement between British India & Mysore, the date of appl^n for all purposes is the date of appl^n in British India and not that in Mysore. It therefore follows that even if the exposure of the specifications etc in the Director's office may amount to publication, it will not prejudice the maintainability of an appl^n for a patent in Mysore or affect in any way the validity of the grant of a patent in pursuance of such appl^n.

20. If approved the Director will be informed accordingly.

Gen Secy)
Dep Secy) ✓

21 I agree.

11/9/34

22 Maybe advised.

OFFICE OF THE FIRST MEMBER OF COUNCIL 17 SEPT. 1934

NOTE—Contn. Sheet.

WD 01955—GPB—22,500—12-6-34

13.9.34

17.9.

File no.

General and Revenue Secretariat

23 Has any arrangement as yet been made in regard to the matter will the Govt. of India be good enough to inform us.

W.W.

Cost

11.10.34

Govt

24 Please see if the Dept. can furnish the information required.

B.

11/10

25. Dev. Br. (V.C.) for favour of furnishing the information req.

26 TSD 13/10 No information on the subject is available in this Branch. The Director of Industries and Commerce in Hyde may perhaps be consulted.

Protection Br. W.C.)

27 Forwarded with compliments to the Director of Industries & Commerce for furnishing the information required.

for Secretary

25/10/34

for Secretary

GEN. & REVENUE SECRETARIAT
30 OCT. 1934
DEVELOPMENT BRANCH

U.O. No. P.71
Dy 26.10.34

OFFICE OF
DIRECTOR I. & C.
NO. 200 DATE 27.10
27/10/34

Govt. requested a copy of note

27/10/34

614

D I C

Case No. .....

Notes.

Subject :—.....

.....

.....

C. Pat. 177/33-34

U.O.NO: 18

34/35

Date. 16.11.34

28 RETURNED WITH COMPLIMENTS:-

There is no reciprocal arrangement made with the Government of India under Section 75 of the Regulation. The question was taken up in 1927-28. We were given to understand by the Residency that the British Indian Law did not then suit of any reciprocal arrangement being made with an Indian State and that the question of amending the Law to permit of such arrangements being made was under consideration.

29 Copy of letter No. D.8445/Pat.17-26-7 dated 11-2-1928 from the Secretary to Government, Development Department in this matter is enclosed herein for ready reference.

Bangalore,
Dated 14th Novr.34

DIRECTOR OF I&C & EX-officio
CONTROLLER OF PATENTS AND
DESIGNS IN MYSORE.

BV2)

28823
20 11 34

30 Dev Secy) MR 20/10/34

31 Finance Secy MR 17.11.34.

4218

32 Mr Rees will please arrange MR 27/11
4/12

33 Note that the Br. Indian Patent Law Lasts

Letter No. D. 8445/Pat. 17-26-7 dated 11-2-1928 from the Secretary to the Government of Mysore, Development Department, to the Director of Industries and Commerce in Mysore, Bangalore and Ex-Officio Controller of Patents and Designs, Bangalore.

In continuation of this Office No. D.1670/Pat. 17-26-5 dated 11th August 1927, I am directed to forward herewith copy of letter No.353/275-1893 dated 12th January 1928 from the Secretary to the Hon'ble the Resident in Mysore'stating that the British Indian Law does not at present permit of any reciprocal arrangement with an Indian State, that the question of amending the Patent Law to permit such arrangements is under consideration and that as regards the reciprocity between the United Kingdom and an Indian State, it is not proposed to pursue it further in the circumstances stated therein'.

The file of papers sent with your office letter No. G.1306 dated 4th/7th June 1927 is also returned herewith as requested in your letter No.C2.956/27 P&D.dated 3rd/4th February 1928.

'COPY'

for Director of I&C. and Ex-Officio
Controller of Patents & Designs.

BV.14-11-1934

612/p. 2-c B&R 612/p. 3-c 10

General and Revenue Secretariat | Pol. File No. 12 of 1934 | [App. F. III

Serial No.

amended so as to allow reciprocal
arrangement with an Iranian Bank
(cf Art VII of 1930). Steps may be
taken to secure reciprocity by
24/1/35

4315

34 Further action in the matter has
to be taken in the Dev Br.

Dev Secy) DSP 24/1/35

5630
16/3

35 Legal 25.1.35.

36 Secy

37 Subd with a draft to the Residency for
approval

38 Type as revised
Secy
14/3/35

TYPING SECTION
14 MAR 1935
GENL & REV. SECTT.

Secy
13/3

39 Subd with a typed draft as directed

Secy
15/3

40 for approval

41 Dev. Secy) Secy
16/3/35

42 25.3.35

43 Issue
Secy
20/3/35

TYPING SECTION
20 MAR. 1935
GENL & REV. SECTT.

2 To, the Secy to the Resident
No Pol 1031 dated 21/3/35
Requests that the Hon'ble the

BRANCH

NOTE—Contn. Sheet.

WD 01955—GPB—22,500—12-6-34

11

File No.	of 193	General and Revenue Secretariat

Resident in Mysore may be moved to address the Govt of India and ascertain their views about entering into reciprocal arrangements with the Govt of India in the matter of the protection of inventions and designs

2114/1624 D. 12

Pal-

Serial No. 3

From,

The Sec^{y} to the Hon'ble the Rev. Dept.

No. F. 458-35/R.O.1 d 26.9.35 pointing out that sec 75 of the Patents and Designs Regn 1911 differs from sec 78 A of the Indian Act and stating that Govt of India have no objection to enter into reciprocal arrangements when the Govt of their Regn is brought into line with Br. Ind. Act.

44

The previous reference having been transferred to Dev. Br. on 8.3.35 vide D. No. 6124/P. this may also be sent there for disposal.

ISD 2/10.

45 Dev Br) BNR 2/10

46

Submitted with reference to the Member's minute dated 24/1/35 (Para 33) above

fd 3/10.

47 The Controller of Patents & Designs may perhaps be consulted in the matter now. There may be little or no objection to amend our ~~Act~~ Regn in regard to time limit referred to as (b) in the Resident's letter. In regard to (a) the Controller of Patents & Designs may be consulted as to the exact ~~wording~~ to be inserted in our Regn when

KB 3/10

Two books

1) Mysore Patents & Designs Regulation 1911

2) Ind. Cr. Gazette dated 15 June 1930. Para III & IV.

WD 3975—6,000—10-35

13 (17) 1624

av (2) File No. of 1934 | General and Revenue Secretariat

R.O.No. 749/35 & 4.10.35
D.1624

48 Forwarded, with compliments, to the Controller of Patents and Designs for favour of opinion.

Seshavarayappa

3/10/35 For Dev. Secy. to Govt.

C.Pat 177/33-34 dt. No. 19/35-36 R.O. No. 19/35-36.

(4)

Returned with compliments -

49 It is necessary to amend sub-section (1) of Section 75 of the Mysore Patents and Designs Regulation III of 1925 to provide for the Legal Representative or assignee of the British Indian applicant claiming priority in the State. Sub-Section (1) of Section 75 should read as follows : -

50 75 (1) "If the Government of Mysore makes any arrangement with the United Kingdom or with the Government of India or any other State for mutual protection of inventions or designs and declares, by a notification in the official Gazette, the provisions of this section to be applicable in such cases, then any person who has applied for protection for any invention or design in the United Kingdom, British India or the other State, or his legal representative or assignee, shall be entitled to a patent for his inventions or to the registration of his design under this regulation in priority to other applicants and the Patent or registration shall have the same date as the date of the application in the United Kingdom, British India or the other State".

OFFICE DIRECTOR No. 13 Dated 11-10-35

11-10-35

D. I. C.

2114/35 P

Case No. .....of 193

NOTES.

K-41

14

Subject :—.....

.....

.....

51 It is also necessary to amend sub-Section (1) (a) of Section 75 of the Mysore Patents and Designs Regulation III of 1925, in order to increase the time limit for filing applications for reciprocity of designs in the State from four months to six months from the application for protection in the United Kingdom, British India or the other State. Sub-Section (1) (a) of Section 75 should then read as follows :- "75 (1) (a) - The application is made in the case of a Patent within 12 months and in the case of a design within six months from the application for protection in the United Kingdom, British India or the other State."

Ex-Officio Controller
of Patents and Designs.

28th Novr. 1935.

52 Submitted with reference to the Members' memorandum dated 24/11/35 (Para 33) above. The Controller of Patents & Designs considers that sub-section (1) and (1)(a) of Section 75 of the P & D regulation for entering into reciprocal arrangements with the Govt. of India, Law may perhaps be consulted in the matter.

SR KB 53 Law Secy)

3/12

DCS 4/12/35

Mysore Legislature Secretary
also to have reference to the time
of Sec 75 (1) above proposed

Law
Pol
etc

WD 870—GPB—960—6-9-35

Case No. ..... of 193..

D. I. C.

15

NOTES

24-4-35 1624

Subject:— ..... Patents

The 'A' Collection Regs 1915 leading to the Reg III of 1925 in pursuance of the Residency in their Communication of 26th Sept 1925 have suggested two amendments to sec 15 of the P & D Act for the proposed reciprocal arrangements now over for the Controller of Designs has suggested me in Corporation of the said amendments to sec 15 in para 47-51 Supra in accordance with the Br. India amendment act of 1930. It seems to be made and may be adopted.

Law

TSD 9/12

The amendments suggested are all right. They bring our Regn in conformity with the Act in British India after it was amended in 1930.

Dewhurst 10/12

5-6

Submitted with reference to the Secretary's minute dated 24/1/35 (Para 13) above

5-7 Draft Bill may be put up with Statement of Objects & Reasons

10/12 10/12 25/2

5-8

Submitted herein a draft bill with a statement of objects & reasons. The draft by Law may perhaps be considered expeditiously

6491/37 P 837 1&3 31

2-6-36

65-14 Case No. of 193

18

NOTES.

Subject:—

No. nn 51-36/37 dated 16.10.37

RETURNED WITH COMPLIMENTS.

7° There is immediate need for providing for reciprocity arrangements; and the draft bill, with the statement of objects and reasons, for the amendment of Section 75(1) and of Sub Section 1(a) of Section 75 of the Mysore Patents and Designs Regulation, already on the file, may kindly be put through. The question of amending the entire Regulation, so as to bring it into a line with Indian Act as amended up to date, is not of immediate importance, and may, if Government see no objection, be deferred for some time.

M. Sham Shendorai

DIRECTOR. 16.10.37

71 Subd. with reg to para 68 above. The draft-bill already approved by the Govt under Reg is put up for consideration. This is a Council case. The Director & the State's Law may be put through.

72 Refer - para 68

Reg 22.10.37

20/48 22.10.37

73 Case worker will please speak to me at Bangalore

MW 23.10.37.

74 Govt Secy Law may be consulted

MW. 23.10.37.

Asst Secy, Law, W.C.) 23.10.37

Reg/xx15

D 01641—GPB—6,000—4-8-37

Case No. 9 of 193

6991

NOTES.

Subject :- 6574/37

25

further action in the matter has been taken in the Legislature Secretariat.

BSR
30.5.38

Asst Secy
Dealing for
W/C

26

Under Secy
W/C

1CC
31/5
31/5

GEN. & REVENUE SECRETARIAT
DISTRICT BRANCH

The matter has already been communicated by the Government (vide para 25)

Further action in the matter has to be taken in the Secretariat according to G.O. No. 9 dt 16-7-1930 and the matter which has to be considered in connection with proposal of H.C. is to be obtained.

The establishment of Officers & Servants & Rules of general principles may perhaps be separated & put up

31/5 Submitted for orders.

Minister

General and Revenue Secretariat | File No. | of 193 . | [App. F. III—2

Serial No.

Home Secy
Revenue)

Law
31/5—

78 (Commerce Secy) Tomorrow is the last date for publication of Bills in the Gazette. If there is no hope of obtaining assent of Council & of H.M. this may be brought before the next C.C. session, though action may be taken meanwhile, as wished by Secy.

Law Secy).

Rev. Secy)

15/8
31/5—

MW.
1.6.

79 Please put the draft Bill, Statt. of Objects & Reasons & Genl. Principles Expd.

15/8
7/6

80 Dipped Lords are put-up as desired

Sd
7/6

15/8
8/6.

81
Rev Secy)

82

Please prompt the Mysore Government action and circulate the papers.

When we are advised there is hope, we may take all the amendments into consideration

Three subsequent meetings MW.
14-7.

NOTE—Contn. Sheet.

WD 0284—GPB—30,000—13-8-37

21

6514/37

File No. of 193 | General and Revenue Secretariat

83

To the library for kindly putting up [illegible] delivering to us [illegible]

Sir, a copy of the Indian Patents and Designs Act, 1911 (Act II of 1911) as amended by Act VII of 1930 for and relating the file conf.

Sec Pol
18/7
1877

84 Indian Patents & Designs Act 1911 is available in Library - - - later edition - as amended by Act VII of 1930 - is not available in Library.

Sec
18/7

85 If approved the Controller of Patents & Designs will be consulted in by letter as per para 2 above.

Sec Pol 86 18/7
1877

87

No Leg No 13 (1937 - Leg) 19.7.1937

Forwarded, w.c., to the Director of Industries and Commerce, Bombay Circle, Controller of Patents & Designs in Bombay for favour of remarks with reg. to-

with Legs 48-1926 (Pat 5-26 (1927) - 17-26 (1937))

Amendment of the Mysore Patents and Designs Act

22

General and Revenue Secretariat | Pol— File No. 12 of 1934 | [App. F. III-2

Serial No.

Para 12 above and stating whether it is not necessary or desirable to take up now the question of amending the entire Act so as to bring it into a line with the Indian Act as amended up-to-date (vide para 70 above)

If it is necessary, the following may be kindly sent for the consideration of Government.

1, A draft bill for the amending the present Act.

2, A statement of objects and reasons with general principles of the bill.

3, A statement indicating the difference between the Mysore Act and the Indian Act.

4 & 5, a copy of the Govt of India Act with up-to-date amendments.

The file may be kindly returned within 5 days

B. O.

K. Srinivasan
19.7.38
for Secretary to Govt.
Dev. Department

2/38-39
19.7.38

NOTE—Contn. Sheet.

Amendment of the Indian Patents and Designs Act

23 699/Pb39 6574/37

File No. of 193

General and Revenue Secretariat

Serial No.

88 Eco No 2/38-39

RETURNED WITH COMPLIMENTS:-

The existing Patents and Designs Act III of 1925 may be amended to bring it into conformity with the Government of India Act as amended up to 1930. A statement showing the existing section, amendments suggested and the section as amended is herewith enclosed. A statement of objects and reasons on the general principles of the bill to be amended is also enclosed. Necessary action may be taken to amend the existing Act. Copy of the Patent Hand Book containing the Government of India Act as amended up to 1930 is also sent herewith. It may be returned after reference. A copy of the bill to further amend the Patents and Designs Act as introduced in the Indian Legislative Assembly in August 1937 is also sent herewith. The bill has not yet been passed into law.

GEN. & REVENUE SECRETARIAT - 5 AUG 1938 DEPARTMENT BRANCH.

16/8/38

M Hallchurch

DIRECTOR OF I&C.
4-8-1938.

ATR)

89 A draft bill is under consideration. After approval by the Asst Secy it will be put up to the Secy.

TYPING SECTION 15 AUG 1938 GEN. & REV. SECTT.

Secy 13/8 go Marked top & put up Early.

16/8 14/8.

1091/1938 Amendment of the Weapons Patents and Designs Act — 1537/38 P

General and Revenue Secretariat | Pol- File No. 65/16/38 of 1938 | [App. F. III–2

OFFICE OF SECOND MEMBER OF COUNCIL, 26 AUG. 1938 No. 1255

Serial No.

91 As desired
A typed draft-bill is put up. The Asst-Leg. Adviser, Law Branch, may perhaps be consulted on the matter
Pse
24/8 by para 2 above

92 A copy of the draft bill may perhaps be sent with the objects & reasons to the Prom. Br. for scrutiny, & the main file subs for orders.
Statement of Govt. business has to be put to the Cab. Secy by 5-9-38.
16/25/8.

893/25/8 93 Dep. Secy)
MW. 26.8.
16/26/8

96
To the Prohibition Br- for kindly looking a copy of the bill for scrutiny & returning the file
for
26/8 97
MW. A copy of the draft bill is taken & the file returned
SW 26/8.

Secy. Prom. Br. 1/9/38

The remarks of the Prom. Br. may be seen.
MW. 2.9.38.

99 Under Secy. Prom. Br.
W/c
16/2-9

100 Please see remarks in the last but one para of the note
Dep. Secy)
16/3-9

NOTE—Contn. Sheet. 1064/39

101 The file will be put up to the Secy. after the Dep. Secy's return.
MW. 5-9. 16/5/9

1447/38
P Patents & Designs 28
1259/D (Amendment) Act.

General and Revenue Secretariat | File No. | of 193 . | [App. F. III–2

Serial No.	
	102 —
	The copy of bill was sent by Asst. Secy. to the Legislative Secretary for scrutiny.
	The amendments made in this bill are based on the amendments introduced in Bom. Indian Act by Act VII of 1930.
	The bill has been gone through with reference to the Bom. Indian Act and our Act of 1925 necessary verbal changes have been made in the copy of the bill placed below. No other changes seem called for. Submitted for orders.
	103 Please see the bill file to ascertain why this bill has been proposed now
	104 31.8
	20 D.W. Bor. for putting up the file.
	The main file (65-14) was submitted to the 2nd Asstt on 26/8/38 for orders for after 24 returned which is sent to the Pro B
	106

Action is being taken in the main file 65-14 of 1938

J. M.

65-14 of 37

NOTE—Contn. Sheet.

26 Amendment of the Cyprus Palestine Order

Draft Def-

Pol- 1257

File No. of 193

General and Revenue Secretariat

Serial No.

107

The amendments of the B.T. Act which must be enacted.

5/9/38 10/8 Necessary changes have been made in the draft Bill referred to in order to bring it in line with the B.T. Act. These changes are purely of a verbal nature (Dft Sec's)

Dft Sec's order (vide para 101 above)

TYPING SECTION 6 SEP. 1938 GENL. & REV. SECTT.

109 Four copies each of the following are placed below

(1) Draft Bill

(2) Statement of objects & reasons

110 The draft Bill may perhaps be referred to the Asst Sec, Law, for scrutiny & return before it is finally approved

111 This is a Council case

If it is proposed to place the Bill before the ensuing meeting of the R.A., one copy of the Statement of objects & reasons will, if approved, be sent to the R.A. Section in advance.

Reg para 101 above

Cen copy placed inside the Bill and one kept P.V.

Gen

1st Dft Sec's

Amendment of the Mysore Police & Village Act 1959

167/33/48

General and Revenue Secretariat | Pol— File No. of 193 . | [App. F. III–2

Serial No.

Secy
Law

MW.
9.9.48

11/9/9.

77
Law
BKR
9.9

11ii All the necessary amendments have been incorporated in the amending Bill to bring our Act in a line with the British Indian Act.

115 Slight corrections are however necessary in two places viz.

In clause 15 :— The words 'customs or' in the proposed sub clause (b) may be omitted

clause 18 :— In the new Section 23A, in the 2nd line substitute '22' for '23'

116 I would also suggest that Section 73 may be amended by adding a new clause corresponding to Section 77 (1) (ee) of the British Indian Act

BKR
13.9

NOTE—Contn. Sheet.

Asst Secy
Secretariat

'28 Amendments to the Trade Marks and Designs Act 1937

Pat File No. of 193 .

General and Revenue Secretariat

Serial No.

DEPT. OF OFFICE

1942

117 The Corrections proposed may be accepted.

118 A Copy of the Genl. Principles has been sent to the Ld RB

Secy

119 If approved the file may now be sent to the Draftsman.

12/11/39

C.G.
1/9/39.

Dep Secy

12a Counsel matter. If Solicitor-General desires I shall be available

Draftsman

MW
17.9.

12b No

13-9-38

12c Chief Secy
with comm

MW
14.9.38.

11a/14.9.

Sent

Ltr memo is put up

12/11 Signed

14/9

14/9

CGC

125 29

For Disposal by Circulation. **No. C. 109**

.....193 8-39

GENERAL AND REVENUE SECRETARIAT.

Council Matter.

Subject

Bill to amend the Mysore Patents and Designs Act III of 1935.

125

Circulated to the Members of Council.

By Order,

14th September 193 8

Chief Secretary to Government.

3000 / 15/9. **First Member of Council.** 126 15/9

1977 / 15.9.38 **Second Member of Council.** 127 15/9/38

128 Dev. Sec't with compts. 16.9.38

129 DTR. 16.9.38.

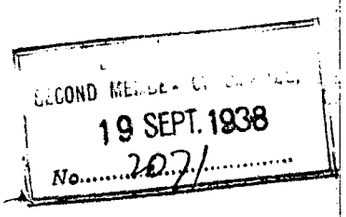
16/9

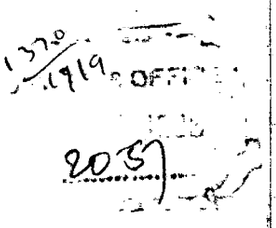
Amendment of the Patents & Designs Act— 1257

30

General and Revenue Secretariat	File No.	of 193 .	[App. F. III—2

Serial No.





130 Two drgs— F. N. & S. N. — are submitted for approval

Sd/-
1919

C.S.S. 19/9

131 Draft Secy)

132 Secretary

133 Signed Trial note is placed in file

CLB 20/9/38.

Dewan

W.W. 19.9.

W.W. 20.9. 19/9/38

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-83

Final Note by the Second Member of Council.

Subject.—

Amendment of the Mysore Patents and Designs Act, III of 1925.

The Mysore Patents and Designs Act III of 1925 was based on the Indian Patents and Designs Act II of 1911. The latter A has been amended in British India in 1920, 1923, 1927 and 1930 to suit the changed conditions of the industrial development of the country. It is necessary to bring the Mysore Act into line with the British Indian Act. The main changes are the extension of the term of a patent from 14 to 16 years, and the amendment of Section 75 of our Act relating to reciprocal arrangements with other Indian States British India and so as to bring it into conformity with the corresponding provision of the Indian Act.

The gracious sanction of His Highness is solicited to place the general principles of the Bill before the Representative Assembly and also to introduce the Bill in the Legislative Council.

M. Visvesvaraya

MEMBER OF COUNCIL.

Bangalore,
20th September 1938.

37

Submitted to His Highness.

135 I submit herewith a Final Note by the Second Member of Council on the subject of the amendment of the Mysore Patents and Designs Act III of 1925 for His Highness' gracious approval.

S Rajagopal

Bangalore,
21st September 1938.)

First Member of Council
in charge of the current duties of the Dewan.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Amendment of the Mysore Patents and Designs Act II of 1925.

137 Ch Sec

No. 208

S/02
23/9

MK
24.9.38

136 **Order.**

~~KRW~~
22/9/38

C. 109 36

General and Revenue Secretariat

SUBJECT:–

Amendment of the Mysore Patents and Designs Act III of 1925

(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Head-quarters and then sent to the Secretariat concerned for the issue of orders.

138 Circulated to Members of Council for perusal of His Highness' orders before/~~after~~ issue of orders. (*) (*Vide Rules* 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.

Through the Secretary to Government,

139 ~~Development~~ Department.
27.9.38

FIRST MEMBER OF COUNCIL.

2251
27.9.38

SECOND MEMBER OF COUNCIL. 28/9/38

141 Secretary to Govt., Dev. Dept., with compliments
28/9/38

NOTE.–Contn. sheet.

30.9.38
KS
1/10

Patents & Designs (Amendment) Bill. 25-
16778

General and Revenue Secretariat — Part File No. 12 of 1934 — [App. F. III—2

Serial No.

142 Secy. The General principles of the Bill have been accepted by the L. A. This may be sent to the Prin. Br. for further action, if appd.

Secy
9/10/38.

16/10.

Dep. Secy. HMW 2.10.

16/4/10.

Under Secy.
Prin. Br. — w/c.

16/3.10

143 Secy. with the proceedings of the L. A. on the Bill.

The general principles were accepted by the L.A. Secy. for orders as the Bills & Sts. & objects & reasons may be published under Rule 8 of L. C. rules.

See 14/11/38 BMM

144 If approved this may be published under rule 8 of the Rules of Business

L. C.

2nd Member & Secy

145 Secy 16/11/38

16/11.

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-83

Copies of proceedings for making up copies of Statements & Objects & Reasons of the Bill.

16/11-38

16/11.

96

D.1022/26 11677

Patents & designs amendment

File No. D829/ of 193 | General and Revenue Secretariat

147 Sec. to L.C. Three printed copies
the Bill & S.O. of Objects & Reasons

See 21/11/38 MW

Three copies taken and the file put
Prot.n B.r

22.11.38 22.11

148 The Bill has been published.
The following motions will,
if approved, be included
in the agenda for the
ensuing meeting of the L.C.
(a) Mr Coates that the Bill
be read a second time
Mover - First member
Seconder Hon. Secy
(b) Mr Coates that the Bill be
referred to a Select
Committee
Mover First member
Seconder Hon. Secy.

OFFICE OF THE SECRETARY
21 NOV 1938
LEGISLATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

OFFICE OF THE
JAN 5 1939
5418

Send for minutes.

See 5/1/39 MW
5/1/39 First member Hon Secy
1/5/1

149 MW
5/1/39

150 L.C office for mover & return
Moved & returned
See 6/1 MW 10.1.39. Prot.n Br
6/1 1.1.39

OFFICE OF THE SECRETARY
6 JAN 1939
REPRESENTATIVE ASSEMBLY AND LEGISLATIVE COUNCIL

Patents and Designs (amendment) Bill

General and Revenue Secretariat | File No. | of 193 . | [App. F. III—2

OFFICE OF THE ... APR 26 1939 No. 8331

Serial No.

(151) This Bill was introduced in the L.C. at its recent session and referred by it to a Select Committee consisting of the following members:-

1. Mr. C. Hayavadana Rao
2. " P. Subbarama Chetty
3. " N. Balakrishnaiya
4. " Diwan N. Lakshminarasappa
5. " M. S. Ramchandra Rao
6. " M. Venkatanarasappa

First Member of Council (Chairman)

(152) Submitted for orders as to the date when the meeting of the Select Committee may be called for. It was originally fixed to the 17th but no notices were issued as ordered since.

One 24.4.39 (1st member's return may be awaited)

hg 24.4

Resubmitted for orders as to the date for the meeting.

One 26.4. (1st member).

hg 26.4

(153) Name it on 2nd May (Tuesday)

May 2/4/39

hg 27.4

issue notices today

hg 27.4

Issued p 5888-93 dated 27.4.39 to the members.

NOTE—Contn. Sheet.

WD 0544—GPB—30,000—2-9-38

D.1752/38

38 1677 Patents and Designs (amendment) Bill.

File No. of 193 | General and Revenue Secretariat

154 The Select Committee met on the 2nd May 1939 and went through all the clauses of the Bill.

A draft report of the Select Committee is submitted for orders. Since a number of need amendments on the lines of the British Indian Act XII of 1939 have been incorporated it is for orders whether republication of the amended Bill may not be ordered.

One 10.5.39 A Copy of the Bill as revised by the Select Committee is also put up.

1st member) 11.5

155 Bill 11/5/39

12.5.39 Issued P 5963-7 to the members with report & Sec dated 11.5.39 Issued P 5968 to the Supdt. Govt. Press for setting in type revised Bill.

156 The report and the revised Bill will be sent to the L.C. Office.

One 17.5.39 Undersecretary has ordered that this may be done.

157 To the L.C. Office with three Copies of the report and a Corrected Proof Copy of the Bill as amended by the Select Committee for further action.

One 17.5.39 3 Copies taken & file returned.

BVM 17-5-39. Proof Copy

17.5

GAZETTE

MAY 11 1939

No. 8905

(4) 7500 P 39

Mysore Patents and Designs (amendment) Bill.

General and Revenue Secretariat | File No. | of 193 | [App. F. III–2

Serial No.

(58) The Report of the Select Committee and the Bill as amended by it were published in the Mysore Gazette of the 18th May 1939.

OFFICE OF THE ... SECRETARIAT
JUN 15 1939
9826

(59) The following motions are put up for inclusion in the agenda of the D.C.

1. Motion that the report of the Select Committee and the Bill as amended by it be taken into Consideration

Move – 1st Member

Seconds – Development Secretary

2. Motion that the Bill as amended be passed

Move – 1st Member

Seconds – Development Secretary

13.6.

2nd Member
(Through DW Sec) 13/6

14/6

(60) II Member 15/6/39

15/6

(61) Rule submitted with notes & amendment clauses

1st Member) 16/6

A 2092
14-6-39

... SECRETARY,
TO GOVERNMENT OF MYSORE.

NOTE—Contn. Sheet.

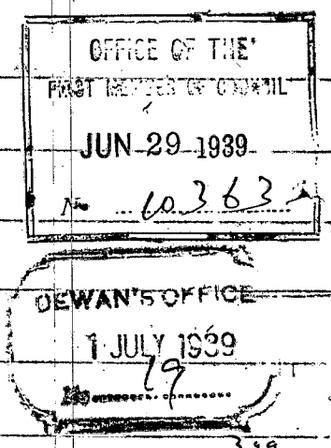
40 7500P

Patents and Designs (amendment) Bill

File No. of 193

General and Revenue Secretariat

Serial No.



162) The Bill as amended by the Select Committee has been passed by the Legislative Council at its Present Sitting.

A. D. J. R. is put up for order.

Jones 27.6.39

BKR 28 6 39

Law Secy)

(163) (& Member) 6/28/6

Signed Final Note is placed in file.

BKR 28-6

CC 30/6

S. N. Subramaniam

Dewan) 6/30/6

BKR 30.6

41

Final Note by the First Member of Council.

Subject.—

Promulgation into law of the Mysore Patents and Designs (amendment) Bill.

The gracious sanction of His Highness was given on the 22nd September 1938 to place the general principles of the Mysore Patents and Designs (amendment) Bill before the Representative Assembly and also to introduce the Bill in the Legislative Council. The general principles were accordingly placed before the Representative Assembly during the last Dasara session and accepted by that House. The Bill which was introduced thereafter in the Legislative Council in January 1939 was referred by it to a Select Committee. The Bill as amended by the Select Committee was considered at the recent session of the Legislative Council and was finally adopted.

I solicit the gracious sanction of His Highness to promulgate the Bill into law.

N. M. Shama Rao

MEMBER OF COUNCIL.

Bangalore,
30th June 1939.

Submitted to His Highness.

I submit herewith a Final Note by the First *Member of Council on the subject of* promulgation into law of the Mysore Patents and Designs (amendment) Bill *for His Highness' gracious approval.*

Mirza M. Ismail

Bangalore,
30th June 1939.

Dewan.

Record of Cases submitted for the Orders of His Highness the Maharaja.

Subject.

Promulgation into law of the Mysore Patents and Designs (amendment) Bill.

Chief Secy
MS
4-7-39

No. 2

Order.

~~KRW~~
3/7/39

MS
4.7.39

44

General and Revenue
Secretariat.

14.12

SUBJECT:—

Promulgation into Law of the Mysore Patents and Designs (amendment) Bill.

(*)

31. All urgent or confidential files returned with His Highness' orders may in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Circulated to Members of Council for perusal of His Highness' orders before/after issue of orders. (*Vide* Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.)

Chief Secretary to Government.

Through the Secretary to Government,

~~Government~~ Department.

4.7.39

117
5.7.39

FIRST MEMBER OF COUNCIL.

5/7/39

220
6.7.39

SECOND MEMBER OF COUNCIL.

6.7

Prohn Branch.

6.7.39

7/7

NOTE.—Contn. sheet

WD 0579—GPB—375—20-12-38

8/7

7570 926

Patents and Designs (amendment) Act 45

General and Revenue Secretariat | Legs. File No. 6 of 1939. [App. F. III–2

Serial No.

The gracious assent of His Highness the Maharaja on 3.7.39 to promulgate the Bill into law.

A draft G.O. directing publication of the Act as Act XV of 1939, is put up.

(Secretary). 3/7

210/1077

Sd/- 8.7

6/7

3/7

Issued G.O. no P 208-Legs 6-39-1 dated 12.7.39

qn KP

The Act has been published in Pt IV of the Gazette of Yesterday (27.7.39).

The file will be sent to the Dev. Br. for note and further action if any and thereafter the file.

(Secretary). 28/7

Sd/- 28.7.39

Dev Br 1.8

(Dy no 626 29.7.39)

Subject for perusal; the Controller of Patents will be asked to submit draft rules under the Act separately.

Action taken separately 10.8.39.

Fo. 8-8-39.

Sd. 29.7.39.

Sd/- 1/8

Subject

There are several amendments of Act III of 1925 and it is perhaps necessary to issue a revised Act embodying the amendments under Act IV of 1939. This may be returned after Act: Branch will

NOTE—Contn. Sheet.

40 Patents & Designs (Amendment) Act

Pat File No. 12 of 193 4

General and Revenue Secretariat.

Serial No.

Write the above suggestion

For orders:

18. 8. 39 Separate action is being taken to frame rules under the new section of the Act

~~1. Interference with~~

Asst Reg
Law Section
W/C

4/8/39

3/1939

767 to 770

A Rec

REGISTERED No. L. 3131.

The Gazette of India

PUBLISHED BY AUTHORITY.

NEW DELHI, SATURDAY, APRIL 1, 1939.

☞ Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV.

Acts of the Indian Legislature assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 28th March, 1939, and is hereby promulgated for general information:—

ACT No. IX OF 1939.

An Act to establish standards of weight throughout British India.

WHEREAS it is expedient to establish standards of weight throughout British India;

It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Standards of Weight Act, 1939.

(*2*) It extends to the whole of British India.

(*3*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

Unit for weight.

2. (*1*) The unit for weight shall be the standard grain, that is to say, that weight which when multiplied by 1799·84585 is the weight *in vacuo* of the iridio-platinum cylinder in the custody of the Mint Master, Bombay, certified by the Standards Department of the British Board of Trade as having a weight of 1799·84585 grains *in vacuo*.

(*2*) The standard grain shall be the only unit from which all other standard weights shall be ascertained.

Standard weights.

3. (*1*) There shall be the following standard weights, namely :—

(*a*) the standard tola, being a weight of 180 standard grains ;

(*b*) the standard seer, being a weight of 80 standard tolas or 14,400 standard grains ;

(*c*) the standard maund, being a weight of 40 standard seers ;

(*d*) the standard pound, being a weight of 7,000 standard grains ;

(*e*) the standard ounce, being one-sixteenth part of the weight of a standard pound ;

(*f*) the standard hundredweight, being a weight of 112 standard pounds ;

(*g*) the standard ton, being a weight of 2,240 standard pounds.

(*2*) No weight other than the weights set forth in sub-section (*1*) and integral multiples or sub-multiples of any such weight shall be used as a standard weight.

Sets of standard weights.

4. (*1*) The Central Government shall cause to be prepared one set of such of the standard weights specified in sub-section (*1*) of section 3 or multiples or sub-multiples thereof as the Central Government may consider expedient, and shall cause each weight of such set to be authenticated as having been ascertained from the standard grain, and shall deposit the set in such custody as the Central Government may think fit.

(*2*) The Central Government shall cause similar sets of weights, similarly authenticated, to be prepared and shall supply one set to each Provincial Government.

(*3*) The Central Government shall cause similar sets of weights, similarly authenticated, to be prepared and shall supply one set to the Government of any Indian State or foreign settlement situated in India which applies for it and pays the price fixed by the Central Government.

Rules.

5. (*1*) The Central Government may, by notification in the official Gazette, make rules for carrying into effect the provisions of this Act.

(*2*) Without prejudice to the generality of the foregoing power, rules made under this section may regulate—

(*a*) the preparation of the sets of standard weights referred to in section 4 ;

(*b*) the custody of the set of such weights which is to be maintained by the Central Government and the periodical verification and adjustment thereof ;

(*c*) the periodical verification and adjustment of the sets of standard weights supplied to Provincial and other Governments

Repeal.

6. The Indian Weights and Measures of Capacity Act, 1871, in so far as it relates to the establishment of standards of weight, is hereby repealed. XXXI of 1871.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 28th March, 1939, and is hereby promulgated for general information:—

ACT NO. X OF 1939.

An Act further to amend the Indian Merchant Shipping Act, 1923, for a certain purpose.

WHEREAS it is expedient to implement fully the provisions of Article 100 (relating to accommodation on pilgrim ships) of the International Sanitary Convention signed at Paris on the 21st day of June, 1926, and in furtherance of that purpose further to amend sections 149 and 193 of the Indian Merchant Shipping Act, 1923 in the manner hereinafter appearing;

XXI of 1923.

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Merchant Shipping (Second Amendment) Act, 1939.

Amendment of section 149 of Act XXI of 1923.

2. In clause (*3*) of section 149 of the Indian Merchant Shipping Act, 1923 (hereinafter referred to as the said Act)—

(*a*) after the words "means a Muhammadan passenger" the words "irrespective of age" shall be inserted, and

(*b*) the words commencing "but it does not include" and ending "shall be reckoned as one pilgrim" shall be omitted.

Amendment of section 193.

3. In the provisos to sub-sections (*2*) and (*3*) of section 193 of the said Act the words "of the age of twelve years or upwards" shall be omitted.

G. H. SPENCE,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 28th March, 1939, and is hereby promulgated for general information:—

ACT NO. XI OF 1939.

An Act to amend the Insurance Act, 1938.

WHEREAS it is expedient to amend the Insurance Act, 1938 for the purposes hereinafter appearing; IV of 1938.

It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Insurance (Amendment) Act, 1939.

(*2*) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint in this behalf.

Amendment of section 2, Act IV of 1938.

2. In section 2 of the Insurance Act, 1938 (hereinafter referred to as the said Act),—

(*a*) to sub-clause (*a*) of clause (*9*) the following shall be added, namely:—

"or

(*iii*) with the object of obtaining insurance business, employs a representative, or maintains a place of business, in British India:"

(*b*) in clause (*11*), after the word "double" the words "or triple" shall be inserted.

Insertion of new sections 2A and 2B.

2A. In Part II of the said Act, after the heading "PROVISIONS APPLICABLE TO INSURERS" the following sections shall be inserted, namely:—

Insurers to be subject to this Act while liabilities remain unsatisfied.

"2A. Every insurer shall be subject to all the provisions of this Act in relation to any class of insurance business so long as his liabilities in British India in respect of business of that class remain unsatisfied or not otherwise provided for.

This Act not to apply to certain insurers ceasing to enter into new contracts before commencement of Act.

2B. The provisions of this Act shall not apply to an insurer as defined in paragraph (*i*) or (*iii*) of sub-clause (*a*) of clause (*9*) of section 2 in relation to any class of his insurance business where such insurer has ceased, before the commencement of this Act, to enter into any new contracts of that class of business."

Amendment of section 7.

3. In section 7 of the said Act,—

(*a*) in clause (*j*) of sub-section (*1*), after the words "or its cargo" the words "and no other type of marine insurance" shall be inserted;

(*b*) in sub-section (*2*), for the word "transacted" the words "carried on" shall be substituted;

(*c*) in sub-section (*3*) and in the proviso thereto, for the words and figures "the 1st day of January, 1939," the words "the expiry of four months from the commencement of this Act" shall be substituted;

(*d*) in sub-section (*4*), after the words "in the case of an insurer" the words "to whom that sub-section applies," shall be inserted.

Amendment of section 8.

4. In sub-section (*1*) of section 8 of the said Act, after the word and figure "section 7" the words and figure "or section 98" shall be inserted.

5. In section 9 of the said Act, after the word and figure " section 7 " the words and figure " or section 98 " shall be inserted. Amendment of section 9.

6.

7. In sub-section (*2*) of section 16 of the said Act,— Amendment of section 16.

(*a*) for the words " four copies " the words " four certified copies " shall be substituted ;

(*b*) in clause (*a*), after the words " a statement " the words " audited by a person duly qualified under the law of the insurer's country " shall be inserted ;

(*c*) in clause (*b*), after the words " applicable to that class of business " the words " and similarly audited," shall be inserted.

8. In section 17 of the said Act,— Amendment of section 17.

(*a*) after the words and figure " incorporated under the Indian Companies Act, 1913," the words and figures " or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby," shall be inserted ;

(*b*) for the words " his accounts and balance-sheet " the words " his balance-sheet and accounts " shall be substituted ;

(*c*) for the words " a copy of such accounts and balance-sheet " the words " copies of such balance-sheet and accounts " shall be substituted ;

(*d*) for the words " where such copy is so sent " the words " where such copies are so sent " shall be substituted ;

(*e*) for the words " to file a balance-sheet " the words " to file copies of the balance-sheet and accounts " shall be substituted ;

(*f*) for the words " the copy of the accounts and balance-sheet so sent " the words " such copies so sent " shall be substituted.

9. After section 17 of the said Act the following section shall be inserted, namely :— Insertion of new section 17A.

" 17A. Nothing in this Act shall apply to the preparation of accounts by an insurer and the audit and submission thereof in respect of any accounting year which has expired prior to the commencement of this Act, and notwithstanding the other provisions of this Act, such accounts shall be prepared, audited and submitted in accordance with the law in force immediately before the commencement of this Act." This Act not to apply to preparation of accounts, etc., for periods prior to this Act coming into force.

10. In sub-section (*1*) and sub-section (*2*) of section 27 of the said Act,— Amendment of section 27.

(*i*) after the word and figure " section 7 " the words and figure " or section 98 " shall be inserted ;

(*ii*) after the words " loans granted by him on policies of life insurance " the words " maturing for payment in India and within their surrender values " shall be inserted.

11. In sub-section (*1*) of section 28 of the said Act,— Amendment of section 28.

(*a*) for the word " fourteen ", in both places where it occurs, the word " thirty-one " shall be substituted ;

(*b*) for the words " the principal officer " the words " a principal officer " shall be substituted.

Amendment of section 31.

12. In section 31 of the said Act,—

(*a*) after the word and figure " section 7 " the words and figure " or section 98 " shall be inserted ;

(*b*) after the words " be kept otherwise than " the words " in the name of a public officer approved by the Central Government, or " shall be inserted.

Amendment of section 35.

13. In sub-section (*4*) of section 35 of the said Act, for the words and figures " and for the payment of the first instalment of the deposit under sections 3 and 7 " the words and figures " under section 3 and for the payment of the instalments of the deposit under section 7 or section 98 " shall be substituted.

Amendment of section 38.

14. In section 38 of the said Act,—

(*a*) in sub-section (*2*),—

(*i*) after the words " instrument duly attested but " the words " except where the transfer or assignment is in favour of the insurer " shall be inserted ;

(*ii*) after the words " notice in writing of the transfer or assignment " the words " together with either the said endorsement or instrument itself or a copy thereof certified to be correct by both transferor and transferee or their duly authorised agents " shall be inserted ;

(*iii*) the words " at his principal place of business in British India by or on behalf of the transferor or transferee " shall be omitted ;

(*iv*) at the end the following proviso shall be added :—

" Provided that where the insurer maintains one or more places of business in British India, such notice shall be delivered only at the place in British India mentioned in the policy for the purpose or at his principal place of business in British India.";

(*b*) in sub-section (*5*), for the words, figure and brackets " From the date of the receipt of the notice referred to in sub-section (*2*), the insurer shall " the words, figure and brackets " Subject to the terms and conditions of the transfer or assignment, the insurer shall, from the date of the receipt of the notice referred to in sub-section (*2*), " shall be substituted ;

(*c*) for sub-section (*6*) the following sub-section shall be substituted, namely :—

' (*6*) Any rights and remedies of an assignee or transferee of a policy of life insurance under an assignment or transfer effected prior to the commencement of this Act shall not be affected by the provisions of this section." ;

(*d*) in sub-section (*7*), for the words " life of the policy-holder " the words " lifetime of the person whose life is insured " shall be substituted.

Amendment of section 39.

15. In section 39 of the said Act,—

(*a*) in sub-section (*1*), after the words " The holder of a policy of life insurance " the words "on his own life, not being an absolute assignee of the benefits under the policy, " shall be inserted ;

(*b*) to sub-section (*2*) the following shall be added, namely :—

" but unless notice in writing of any such cancellation or change has been delivered to the insurer, the insurer shall not be liable for any payment under the policy made

bona fide by him to a nominee mentioned in the text of the policy or registered in records of the insurer. " ;

(*c*) for sub-section (*3*) the following sub-section shall be substituted, namely :—

" (*3*) The insurer shall furnish to the policy-holder a written acknowledgment of having registered a nomination or a cancellation or change thereof, and may charge a fee not exceeding one rupee for registering such cancellation or change." ;

(*d*) in sub-section (*5*), for the words " lifetime of the policy-holder " the words " lifetime of the person whose life is insured " shall be substituted ;

(*e*) in sub-section (*6*), for the word " policy-holder " the words " person whose life is insured " shall be substituted.

Amendment of section 40.

16. In section 40 of the said Act,—

(*a*) in sub-section (*1*), the word " licensed ", in both places where it occurs, and the words and figure " under section 42 " shall be omitted ;

(*b*) in sub-section (*2*), the words and figure " licensed under section 42 " shall be omitted ;

(*c*) in sub-section (*3*), for the words " an insurance agent " the words " any person, whether an insurance agent within the meaning of this Act or not, " shall be substituted.

17.

Amendment section 47.

18. In section 47 of the said Act,—

(*a*) in sub-section (*1*), after the words " from the date of the maturing of the policy " the words " or, where the circumstances are such that the insurer cannot be immediately aware of such maturing, from the date on which notice of such maturing is given to the insurer, " shall be inserted ;

(*b*) in sub-section (*4*), for the words " from the death of the insured, or the maturing of the policy by survival " the words " from the maturing of the policy by survival, or from the date of receipt of notice by the insurer of the death of the insured, as the case may be, " shall be substituted.

Amendment of section 48.

19. In section 48 of the said Act,—

(*a*) in sub-section (*1*), after the words and figure " incorporated under the Indian Companies Act, 1913," the words and figures " or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby, " shall be inserted ;

(*b*) for sub-section (*2*) the following sub-section shall be substituted, namely :—

" (*2*) This section shall not take effect, in respect of any company in existence at the commencement of this Act, until the expiry of one year therefrom, and in respect of any company incorporated after the commencement of this Act, until the expiry of two years from the date of registration to carry on life insurance business. "

Amendment of section 50.

20. In section 50 of the said Act, for the words " within three months of the lapsing of a policy of life insurance, " the words " before the expiry of three months from the date on which the premiums in respect of a policy of life insurance were payable but not paid." shall be substituted.

Amendment of section 53.

21. In sub-clause (*i*) of clause (*b*) of sub-section (*2*) of section 53 of the said Act, after the word and figure " section 7 " the words and figure " or section 98 " shall be inserted.

Amendment of section 59.

22. In section 59 of the said Act, for the words and figure "deposit made by the company under section 7" the words and figures "deposit made by the company or the insurer, as the case may be, under section 7 or section 98" shall be substituted.

Amendment of section 63.

23. In section 63 of the said Act, for the word "agent" the word "representative" shall be substituted.

Amendment of section 65.

24. In section 65 of the said Act, for the word "incorporate" the word "unincorporate" shall be substituted.

Amendment of section 73.

25. In sub-section (*1*) of section 73 of the said Act,—

(*a*) for the words "make each year" the words "make in each calendar year" shall be substituted;

(*b*) for the words "income for the year" the words "income for the preceding calendar year" shall be substituted.

Amendment of section 80.

26. In sub-section (*3*) of section 80 of the said Act, after the words "this section" the words and figure "and section 73" shall be inserted.

Amendment of section 82.

27. In sub-section (*3*) of section 82 of the said Act, after the words and figure "incorporated under the Indian Companies Act, 1913," the words and figures "or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby," shall be inserted.

Amendment of section 85.

28. To sub-section (*2*) of section 85 of the said Act the words "or in the name of a public officer approved by the Central Government" shall be added.

Amendment of section 95.

29. In clause (*a*) of sub-section (*1*) of section 95 of the said Act, for the words and figure "incorporated under the provisions of the Indian Companies Act, 1913," the words and figures "incorporated under the Indian Companies Act, 1913, or under the Indian Companies Act, 1882, or under the Indian Companies Act, 1866, or under any Act repealed thereby," shall be substituted.

Amendment of section 98.

30. In sub-section (*2*) of section 98 of the said Act, for the word "year", in both places where it occurs, the words "calendar year" shall be substituted.

Amendment of section 103.

31. In sub-section (*1*) of section 103 of the said Act, for the words "in relation to any such class of insurance business" the words "in relation to any insurance business transacted in contravention of any of the said sections" shall be substituted.

Amendment of section 114.

32. In clause (*b*) of sub-section (*2*) of section 114 of the said Act, after the figure and brackets "(*5*)," the figure and brackets "(*6*)," shall be inserted.

Amendment of section 116.

33. In section 116 of the said Act, for the word and figure "section 6" the words and figures "section 7 or section 98" shall be substituted.

Repeal of section 122 of Act IV of 1938 and saving of article 86 in First Schedule to Act IX of 1908.

34. Section 122 of the said Act is hereby repealed, and article 86 in the First Schedule to the Indian Limitation Act, 1908, shall have effect as if the said section had never been enacted.

Amendment of First Schedule to Act IV of 1938.

35. In Part II of the First Schedule to the said Act, in the heading to Form AA, for the words "Indian Assets" the words "Assets in India" shall be substituted.

Amendment of Third Schedule.

36. In Part II of the Third Schedule to the said Act,—

(*a*) in Form D,—

(*i*) for the entry in the first column "Commission (less that on Re-insurances)" the entry "Commission to insurance agents (less that on Re-insurances)" shall be substituted;

(*ii*) for the entry in the first column " 1. Commission and allowances " the entry " 1. Allowances and Commission (other than commission to insurance agents) " shall be substituted ;

(*iii*) in note (*e*) the word " British " shall be omitted ;

(*b*) in the fourth column of Form DD, after the word " immediate " the words " or deferred " shall be inserted ;

(*c*) to Form DDD the following notes shall be added, namely :—

" A separate statement must be given in respect of each class of life insurance business for which a separate revenue account is submitted.

Insurers having their principal place of business in British India shall give the information required in the form separately for business transacted in India and business transacted outside India and insurers having their principal place of business outside British India will furnish information regarding business transacted in India only." ;

(*d*) in Form DDDD,—

(*i*) the word " financial ", in the three places where it occurs, shall be omitted ;

(*ii*) for the word " revised " the word " revived " shall be substituted ;

(*e*) in note (*c*), note (*d*) and the note denoted by an asterisk in Form E, the word " British ", wherever it occurs, shall be omitted ;

(*f*) in note (*d*), note (*e*) and the note denoted by an asterisk in Form F, the word " British ", wherever it occurs, shall be omitted.

37. In Part I of the Fourth Schedule to the said Act,— Amendment of Fourth Schedule.

(*a*) in regulation 2, for the word and figure " paragraph 3 " the word and figure " paragraph 4 " shall be substituted ;

(*b*) in regulation 3, for the word and figure " paragraph 4 ", in the three places where they occur, the word and figure " paragraph 5 " shall be substituted ;

(*c*) in the proviso to regulation 4,—

(*i*) for the words " an insurance company " the words " an insurer " shall be substituted ;

(*ii*) for the words " the company ", in both places where they occur, the words " the insurer " shall be substituted.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 28th March, 1939, and is hereby promulgated for general information:—

ACT NO. XII OF 1939.

An Act further to amend the law relating to the protection of Inventions and Designs.

WHEREAS it is expedient further to amend the law relating to the protection of Inventions and Designs; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Patents and Designs (Amendment) Act, 1939.

Amendment of section 2, Act II of 1911.

2. For clause (7) of section 2 of the Indian Patents and Designs Act, 1911 (hereinafter referred to as the said Act), the following clause shall be substituted, namely:— II of 1911.

(7) "High Court" means a High Court as defined in sub-section (1) of section 219 of the Government of India Act, 1935.' 26 Geo. V, ch. 2.

Amendment of section 5, Act II of 1911.

3. In section 5 of the said Act,—

(a) in sub-section (1),—

(i) for the words "examine every application, and if he considers" the words "refer every application to an Examiner and if satisfied on the report of the Examiner" shall be substituted

(ia) in clause (c), after the words "the title" the words "of the specification" shall be inserted

(ii) in clause (e), after the words "not a" the words "manner of" shall be inserted;

(iii) for clause (f) the following clauses shall be substituted, namely:—

'(f) the specification relates to more than one invention, or

(g) in the case of an application claiming priority under section 78A, the specification describes and claims an invention substantially larger than or substantially different from the invention disclosed in the specification filed with the application made outside British India by virtue of which priority is claimed, or

(h) in the case of an application for a patent of addition under section 15A, the invention described and claimed in the specification is not an improvement or modification of that described and claimed in the original specification,";

(b) after sub-section (1) the following sub-section shall be inserted, namely:—

"(1A) If the Controller considers, at any time before the acceptance of an application, that the invention claimed therein has been wholly or in part claimed in a specification published on or after the date which the patent applied for would bear if granted, appertaining to an application for a patent which if granted will be of prior date to the patent applied for, he may require that the applicant's specification be amended by

the insertion of a reference to such other specification, by way of notice to the public.";

(*c*) in sub-section (*2*), after the word "amendment" the words "or the insertion of a reference" shall be inserted ; and

(*d*) in sub-section (*4*),—

(*i*) for the words "become void" the words "be deemed to have been refused" shall be substituted ;

(*ii*) in the proviso the words "by any period not exceeding three months" shall be omitted ; and for the words "or revived, as the case may be, during, but not beyond the period of extension so requested" the words "for any period so requested not exeeeding in all three months from the expiration of the said period of twelve months" shall be substituted.

Amendment of section 10, Act II of 1911.

4. In clause (*b*) of the proviso to sub-section (*2*) of section 10 of the said Act, after the word "patent", where it occurs for the first time, the words "or by any proceedings taken for obtaining a direction of the Controller under the provisions of sub-section (*1A*)" shall be inserted.

Amendment of section 14, Act II of 1911.

5. In section 14 of the said Act,—

(*a*) in sub-section (*1B*), for the words "may determine" the words "may, on application made in this behalf, determine" shall be substituted :

(*b*) in the proviso to sub-section (*2*),—

(*i*) the words "by any period not exceeding three months" shall be omitted ; and

(*ii*) for the words "during, but not beyond, the period of extension applied for" the words "for any period so applied for not exceeding in all three months from the expiration of the time for payment" shall be substituted.

Amendment of section 15, Act II of 1911.

6. In section 15 of the said Act, for sub-sections (*5*) and (*6*) the following sub-sections shall be substituted, namely :—

"(*5*) The Central Government or the High Court to which a petition is referred shall in considering the petition have regard to the nature and merits of the invention in relation to the public, to the profits made on the patent and to all the circumstances of the case.

(*6*) If it appears to the Central Government or to the High Court when the petition is referred to it, that the patent has not been sufficiently remunerative, the Central Government or the High Court, as the case may be, may by order extend the term of the patent for a further term not exceeding five or in exceptional cases ten years or may order the grant of a new patent for such term not exceeding ten years as may be specified in the order and subject to any restriction, conditions and provisions which the Central Government or the High Court, as the case may be, may think fit."

Amendment of section 26, Act II of 1911.

7. For sub-section (*1*) of section 26 of the said Act, the following sub-section shall be substituted, namely :—

"(*1*) Revocation of a patent in whole or in part may be obtained on petition to or on a counter claim in a suit for infringement before a High Court on all or any of the following grounds, namely :—

(*a*) that the invention has been the subject of a valid prior grant of a patent in British India ;

(*b*) that the true and first inventor or his legal representative or assign was not the applicant or one of the applicants for the patent ;

(*c*) that the patent was obtained in fraud of the rights of the person applying for the revocation or of any person under or through whom he claims ;

(*d*) that the invention was not, at the date of the patent, a manner of new manufacture or improvement ;

(*e*) that the invention does not involve any inventive step, having regard to what was known or used prior to the date of the patent ;

(*f*) that the invention is of no utility ;

(*g*) that the specification does not sufficiently and fairly describe and ascertain the nature of the invention and the manner in which the invention is to be performed ;

(*h*) that the specification does not sufficiently and clearly ascertain the scope of the invention claimed ;

(*i*) that the patent was obtained on a false suggestion or representation ;

(*j*) that the primary or intended use or exercise of the invention is contrary to law ;

(*k*) that the patentee has contravened, or has not complied with, the conditions contained in the patent ;

(*l*) that the specification does not disclose the best method of performance of the invention known to the applicant for the patent at the time when the specification was left at the Patent Office ;

(*m*) that prior to the date of the patent, the patentee or other persons (not being authorities administering any department of the service of His Majesty, or the agents or contractors of, or any other persons authorised in that behalf by, the Central Government) secretly worked the invention on a commercial scale (and not merely by way of reasonable trial or experiment) in British India, and thereby made direct or indirect profits in excess of such amount as the Court may in consideration of all the circumstances of the case deem reasonable :

Provided that this sub-section shall have effect in relation to the ground of revocation specified—

(*i*) in clause (*b*), subject to the provisions of section 78A ; or

(*ii*) in clause (*d*), subject to the provisions of sub-section (*1*) of section 13, sub-section (*2*) of section 21, section 38 and section 40."

Amendment of section 29 Act II of 1911.

8. (*a*) To sub-section (*1*) of section 29 of the said Act, the following proviso shall be added, namely :—

" Provided that where a counter claim for revocation of the patent is made by the defendant, the suit, along with the counter claim, shall be transferred to the High Court for decision".

(*b*) In sub-section (*2*) of section 29 of the said Act, for the words "this Act" the word and figure " section 26 " shall be substituted.

Substitution of new section for section 38, Act II of 1911.

9. For section 38 of the said Act the following section shall be substituted, namely :—

Public use or knowledge of invention.

" 38. The public use or knowledge of an invention in British India before the date of the application for a patent thereon shall not invalidate the patent granted thereon if the

knowledge has been obtained surreptitiously or in fraud of the true and first inventor or his legal representative or assign or has been communicated to the public in fraud of such inventor or his legal representative or assign or in breach of confidence:

Provided that such inventor or his legal representative or assign has not acquiesced in the public use of his invention, and that he applies for a patent within six months after the commencement of such use."

Substitution of new section for section 40, Act II of 1911.

10. For section 40 of the said Act the following section shall be substituted, namely:—

Provisions as to exhibitions and readings before learned societies.

"40. The exhibition of an invention at an industrial or other exhibition to which the provisions of this section have been extended by the Central Government by notification in the official Gazette, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention or the publication of any description thereof, during or after the period of the holding of the exhibition, by any person elsewhere without the privity or consent of the inventor or the reading of a paper by an inventor before a learned society, or the publication of that paper in the society's transactions shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention, or the validity of any patent granted on the application:

Provided that—

(*a*) the exhibitor exhibiting the invention or the inventor reading the paper or authorising the publication thereof, as the case may be, gives to the Controller previous notice in the prescribed form; and

(*b*) the application for a patent is made before or within six months from the date of first exhibiting the invention or of the reading of the paper, as the case may be, or when it has not been so read, of the said publication."

Amendment of section 47, Act II of 1911.

11. In sub-sections (*2*) and (*3*) of section 47 of the said Act, the words "within the prescribed time" shall be omitted.

Substitution of new section for section 52, Act II of 1911.

12. For section 52 of the said Act the following section shall be substituted, namely:—

Provisions as to exhibitions.

"52. The exhibition of a design, or of any article to which a design is applied, at an industrial or other exhibition to which the provisions of this section have been extended by the Central Government by notification in the official Gazette, or the publication of a description of the design, during the period of the holding of the exhibition, or the exhibition of the design or the article or the publication of a description of the design by any person elsewhere during or after the period of the holding of the exhibition, without the privity or consent of the proprietor, shall not prevent the design from being registered or invalidate the registration thereof:

Provided that—

(*a*) the exhibitor exhibiting the design or article, or publishing a description of the design, gives to the Controller previous notice in the prescribed form; and

(*b*) the application for registration is made within six months from the date of first exhibiting the design or article or publishing a description of the design."

Amendment of section 53, Act II of 1911.

13. In sub-section (*1*) of section 53 of the said Act,—

(*a*) after clause (*a*) the following clause shall be inserted, namely:—

"(*aa*) to import for the purposes of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof; or"

(*b*) in sub-clause (*b*), after the words "applied to any article," the words "in any class of goods in which the design is registered" shall be inserted:

Insertion of new section 59A in Act II of 1911.

14. After section 59 of the said Act the following section shall be inserted, namely:—

Information relating to patents.

"59A. A person making a request to the Controller in the prescribed manner as respects any patent specified in the request or as respects any application for a patent so specified, for information to be furnished to him by the Controller of any such matters as may be prescribed affecting that patent or application, shall be entitled, subject to the payment of the prescribed fee, to have information supplied to him accordingly."

Amendment of section 65, Act II of 1911.

15. In section 65 of the said Act, the word "and", in the first three places where it occurs, shall be omitted, and for the words "compelling the production of documents and awarding costs" the words "compelling the discovery and production of documents, issuing commissions for the examining of witnesses and awarding costs and such award shall be executable in any court having jurisdiction as if it were a decree of that court" shall be substituted.

Insertion of new section 70A in Act II of 1911.

16. After the heading "*Evidence, etc.*" and before section 71 of the said Act, the following section shall be inserted, namely:—

Evidence before the Controller.

"70A. Subject to any rules made under section 77, in any proceeding under this Act before the Controller, the evidence shall be given by affidavit, in the absence of directions by the Controller to the contrary; but in any case in which the Controller thinks it right so to do he may take evidence *viva voce* in lieu of or in addition to evidence by affidavit or may allow any party to be cross-examined on the contents of his affidavit."

Insertion of new section 71A in Act II of 1911.

17. After section 71 of the said Act the following section shall be inserted, namely:—

Evidence of documents in Patent Office.

"71A. Printed or written copies or extracts, purporting to be certified by the Controller and sealed with the seal of the Patent Office, of or from patents, specifications and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all Courts in British India, and in all proceedings, without further proof or production of the originals:

Provided that a Court may, if it has reason to doubt the accuracy or authenticity of the copies tendered in evidence, require the production of the originals or such further proof as it considers necessary."

Substitution of new section for section 72, Act I of 1911.

18. For section 72 of the said Act the following section shall be substituted, namely:—

Transmission of copies of specifications etc., and inspection thereof.

"72. Copies of all such specifications, drawings and amendments left at the Patent Office, as become open to public inspection under the provisions of this Act, shall be transmitted, as soon as may be, after the printed copies thereof are available, to such authorities as the Central Government may appoint in this behalf, and shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities and approved by the Central Government."

Amendment of section 78A, Act II of 1911.

19. In sub-section (*1*) of section 78A of the said Act,—

(*a*) for the words and figures "apply such of the provisions of section 91 of the Patents and Designs Act, 1907, as relate to inventions or designs, to British India," the words, letter and figures "declare British India to be a convention country within the meaning of section 91A of the Patents and Designs Act, 1907," shall be substituted;

(*b*) for the words "shall be entitled to a patent for his invention or to registration of his design under this Act, in priority to other applicants; and the patent or registration shall have" the words "shall, either alone or jointly with any other person, be entitled to claim that the patent that may be granted to him under this Act, for the said invention or the registration of the said design under this Act, shall be in priority to other applicants and shall have" shall be substituted.

Amendment of Schedule, Act II of 1911.

20. In the Schedule to the said Act, for the words "Before the expiration of", where they occur in the penultimate entry, the words "In respect of" shall be substituted.

Amendment of section 18, Act VIII of 187

21. In section 18 of the Indian Sea Customs Act, VIII of 1878. 1878, after clause (*f*) the following clause shall be inserted, namely:—

"(*ff*) goods made or produced beyond the limits of British India and intended for sale, and having applied thereto, a design in which copyright exists under the Indian Patents and Designs Act, 1911, in respect of the class to which the goods belong or any fraudulent or obvious imitation of such design except when the application of such design has been made with the license or written consent of the registered proprietor of the design;".

G. H. SPENCE,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 28th March 1939, and is hereby promulgated for general information:—

ACT NO. XIII OF 1939.

An Act further to amend the Workmen's Compensation Act, 1923 for a certain purpose.

WHEREAS doubts have been entertained whether a workman employed on wages payable otherwise than by the month or on a monthly basis may be a workman within the meaning of the Workmen's Compensation Act, 1923;

VIII of 1923. AND WHEREAS it is expedient to remove those doubts, and for that purpose further to amend section 5 of that Act in the manner hereinafter appearing;

It is hereby enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Workmen's Compensation (Amendment) Act, 1939.

(*2*) It shall come into force on the 1st day of May, 1939:

Provided that section 2 shall be deemed to have taken effect from the 30th day of June, 1934.

Amendment of section 5 of Act VIII of 1923.

2. In section 5 of the Workmen's Compensation Act, 1923—

(*a*) for the words "For the purposes of this Act the monthly wages of a workman shall be calculated" the following shall be substituted, namely:—

"In this Act and for the purposes thereof the expression "monthly wages" means the amount of wages deemed to be payable for a month's service (whether the wages are payable by the month or by whatever other period or at piece rates), and calculated";

(*b*) in clause (*b*), the words "deemed to be" shall be omitted.

Restoration of proceedings.

3. Where in any proceedings under the Workmen's VIII of 1923. Compensation Act, 1923, concluded after the 1st day of July, 1934, any person has been found by a Court not to be a workman within the meaning of that Act only by reason of the fact that his wages were payable otherwise than by the month or on a monthly basis, such finding shall be void and of no effect; and the Court shall, notwithstanding anything to the contrary in the IX of 1908. Indian Limitation Act, 1908 or any other law for the time being in force, on application made within six months from the commencement of this Act by any person prejudicially affected by such finding, restore the proceedings at, and continue the proceedings from, the stage reached immediately before the order embodying or based on such finding was made.

G. H. SPENCE,

Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 28th March, 1939, and is hereby promulgated for general information:—

ACT NO. XIV OF 1939.

An Act to amend the Cotton Ginning and Pressing Factories Act, 1925 for certain purposes.

WHEREAS it is expedient to amend the Cotton Ginning and Pressing Factories Act, 1925 for the purposes hereinafter appearing; XII of 1925.

It is hereby enacted as follows:—

Short title. 1. This Act may be called the Cotton Ginning and Pressing Factories (Amendment) Act, 1939.

Amendment of section 9 of Act XII of 1925. 2. In section 9 of the Cotton Ginning and Pressing Factories Act, 1925 (hereinafter referred to as the said Act)—

(*a*) after sub-section (*1*) the following sub-section shall be inserted, namely:—

"(*1A*) In any cotton ginning factory, whether erected before or after the commencement of this Act—

(*a*) no structural alterations or additions, the construction of which commenced after the 27th day of February, 1939, shall be made so as to minimise the degree of compliance of the factory as a whole with the requirements set forth in clauses (*a*) and (*b*) of sub-section (*1*), and

(*b*) every structural addition (whether actually attached to any existing structure in the factory or not), the construction of which commenced after the last-mentioned date, shall be constructed in accordance with plans and specifications approved by the prescribed authority:

Provided that nothing in this sub-section shall apply to any factory in which, after any alteration or addition has been made, only roller gins are used where the number of such gins is not more than four.";

(*b*) in clause (*a*) of sub-section (*4*), after the word, figure and brackets "sub-section (*1*)" the word, letter, figure and brackets ", sub-section (*1A*)" shall be inserted.

Amendment of section 14. 3. (*1*) Section 14 of the said Act shall be renumbered as sub-section (*1*) of section 14, and in the said section as so renumbered—

(*a*) for the words and figure "in accordance with section 4" the words and figure "with the mark prescribed under section 4 for the factory in which they were pressed," shall be substituted;

(*b*) the proviso shall be omitted.

(*2*) To the said section as so renumbered the following sub-section shall be added, namely:—

"(*2*) Any bale marked in accordance with the provisions of section 4 shall, within the meaning of the Indian Evidence Act, 1872, be presumed for all purposes as between the parties to a contract for the purchase of baled cotton, to have been so marked before leaving the factory in which it was pressed." I of 1872.

G. H. SPENCE,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act, which has been assented to by the Governor General under the provisions of clause (*b*) of sub-section (1) of section 67B of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, and has been expressed to be made by the Governor General under the provisions of sub-section (2) of the same section, is hereby published for general information:—

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the incidence and rate of excise duty on khandsari *sugar leviable under the Sugar (Excise Duty) Act, 1934, to vary certain duties leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, and to fix rates of income-tax and super-tax.*

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the incidence and rate of excise duty on *khandsari* sugar leviable under the Sugar (Excise Duty) Act, 1934, to vary the duty on raw cotton leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, and to fix rates of income-tax and super-tax; XIV of 1934. XXXII of 1934. VI of 1898.

It is hereby enacted as follows:—

Short title and extent.

1. (*1*) This Act may be called the Indian Finance Act, 1939.

(*2*) It extends to the whole of British India.

Fixation of salt duty.

2. The provisions of section 7 of the Indian Salt Act, 1882, shall, in so far as they enable the Central Government to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India, be construed as if, for the year beginning on the 1st day of April, 1939, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule under that section. XII of 1882.

Excise duty on *khandsari* sugar.

3. In the Sugar (Excise Duty) Act, 1934,— XIV of 1934.

(*a*) in clause (*a*) of section 2, the words "wherein, or within the precincts of which, twenty or more workers are working or were working on any day of the preceding twelve months, and" shall be omitted.

(*b*) in clause (*i*) of sub-section (*2*) of section 3, for the words "one rupee and five annas" the words "eight annas" shall be substituted.

Import duty on raw cotton.

4. In the First Schedule to the Indian Tariff Act, 1934, in Item No. 46 (3), for the words "six pies per lb." in the fourth column, the words "one anna per lb." shall be substituted. XXXII of 1934.

Inland postage rates.

5. For the year beginning on the 1st day of April, 1939, the Schedule contained in Schedule I to this Act shall be inserted in the Indian Post Office Act, 1898, as the First Schedule to that Act.

VI of 1898.

Income-tax and super-tax.

6. (*1*) Subject to the provisions of sub-section (*2*)—

(*a*) income-tax for the year beginning on the 1st day of April, 1939, shall be charged at the rates specified in Part I of Schedule II, and

(*b*) rates of super-tax for the year beginning on the 1st day of April, 1939, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be those specified in Part II of Schedule II.

XI of 1922.

(*2*) In cases to which section 17 of the Indian Income-tax Act, 1922, applies, the tax chargeable shall be determined in accordance with the provisions of that section with reference to the rates specified in Schedule II.

XI of 1922.

(*3*) For the purpose of this section and of Schedule II, the expression " total income " means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922.

XI of 1922.

(*4*) Notwithstanding anything contained in sub-section (*1*) or sub-section (*2*), where more than half of the total income of any individual or Hindu undivided family consists of income from salaries, interest on securities or dividends in respect of which the individual or Hindu undivided family is deemed, under the provisions of section 49B of the Indian Income-tax Act, 1922, to have paid income-tax imposed in British India, or consists of income falling under more than one of those heads—

XI of 1922.

(*a*) income-tax for the year beginning on the 1st day of April, 1939, shall be charged in respect of such total incomes at the rates of income-tax which were imposed for the year beginning on the 1st day of April, 1938, in respect of incomes of individuals or Hindu undivided families, and

(*b*) in cases in which super-tax has been deducted under the provisions of section 18 of the said Act or would have been so deductible had the Indian Income-tax (Amendment) Act, 1939, come into force on the 1st day of April, 1938, the rates of super-tax for the year beginning on the 1st day of April, 1939, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922, be the rates of super-tax which were imposed for the year beginning on the 1st day of April, 1938, in respect of incomes of individuals or Hindu undivided families, as the case may be.

VII of 1939.

XI of 1922.

(*5*) In respect of income to which sub-section (*4*) applies, the provisions of section 17 of the Indian Income-tax Act, 1922, shall apply to the assessment to be made for the year beginning on the 1st day of April, 1939, as though the Indian Income-tax (Amendment) Act, 1939, had not been passed.

XI of 1922.

VII of 1939.

66

SCHEDULE I.

Schedule to be inserted in the Indian Post Office Act, 1898.

[*See* section 5.]

"THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

[*See* section 7.]

Letters.

For a weight not exceeding one tola	One anna.
For every tola, or fraction thereof, exceeding one tola	Half an anna.

Postcards.

Single	Nine pies.
Reply	One and a half annas.

Book, Pattern and Sample Packets.

For the first two and a half tolas or fraction thereof	Six pies
For every additional two and a half tolas, or fraction thereof, in excess of two and a half tolas	Three pies.

Registered Newspapers.

For a weight not exceeding ten tolas	Quarter of an anna.
For a weight exceeding ten tolas and not exceeding twenty tolas	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	Half an anna.
In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—	
For a weight not exceeding ten tolas	Half an anna.
For every additional five tolas, or fraction thereof, in excess of ten tolas;	Quarter of an anna.

Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the post office.

Parcels.

For a weight not exceeding forty tolas	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas.	Four annas."

SCHEDULE II.

[*See* section 6.]

PART I.

RATES OF INCOME-TAX.

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons not being a case to which paragraph B of this Part applies—

	Rate.
1. On the first Rs. 1,500 of total income	*Nil.*
2. On the next Rs. 3,500 of total income	Nine pies in the rupee.
3. On the next Rs. 5,000 of total income	One anna and three pies in the rupee.
4. On the next Rs. 5,000 of total income	Two annas in the rupee.
5. On the balance of total income	Two annas and six pies in the rupee.

Provided that—

(*i*) no income-tax shall be payable on a total income which does not exceed Rs. 2,000;

(*ii*) the income-tax payable shall in no case exceed half the amount by which the total income exceeds Rs. 2,000.

B. In the case of every company and local authority, and in every case in which, under the provisions of the Indian Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

	Rate.
On the whole of total income	Two annas and six pies in the rupee.

PART II.

RATES OF SUPER-TAX.

A. In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B of this Part applies—

	Rate.
1. On the first Rs. 25,000 of total income	*Nil.*
2. On the next Rs. 10,000 of total income	One anna in the rupee.
3. On the next Rs. 20,000 of total income	Two annas in the rupee.
4. On the next Rs. 70,000 of total income	Three annas in the rupee.
5. On the next Rs. 75,000 of total income	Four annas in the rupee.
6. On the next Rs. 1,50,000 of total income	Five annas in the rupee.
7. On the next Rs. 1,50,000 of total income	Six annas in the rupee.
8. On the balance of total income	Seven annas in the rupee.

B. In the case of every company and local authority—

	Rate.
On the whole of total income	One anna in the rupee.

This Bill has been consented to by the Council of State.

M. B. DADABHOY,

The 28th March, 1939. *President, Council of State.*

I assent to this Bill.

LINLITHGOW,

The 30th March, 1939. *Viceroy and Governor General.*

This Act has been made by me as Governor General under the provisions of section 67B of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935.

LINLITHGOW,

The 30th March, 1939. *Viceroy and Governor General.*

WHEREAS I, Victor Alexander John, Marquess of Linlithgow, am of opinion that a state of emergency exists which justifies the direction by me that the Indian Finance Act, 1939, being an Act made by me under the provisions of section 67B of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, shall come into operation forthwith :

NOW, THEREFORE, in exercise of the power conferred by the proviso to sub-section (2) of that section, I do hereby direct accordingly.

LINLITHGOW,

The 30th March, 1939. *Viceroy and Governor General.*

G. H. SPENCE,

Secy. to the Govt. of India.

6434/38

The Mysore Iron & Steel Works.
BOMBAY.

C/o The Mysore Govt. Industries,
Hornby Road, Bombay,
15th April 1939.

My dear Sir,

As the First Member is leaving for Delhi and expects to return to Bangalore only about the 21st or 22nd instant, he desires that the Select Committee on Patents and Designs fixed for the 18th April 1939 has to be postponed. The Member said that the date for the Select Committee may be settled after his return to Bangalore.

Yours obediently,
C. L. Gabriel
P.

MD/17.4

A. Sundararaja Rao Esq., Ba., BL
Under Secretary to Government.

2.5.39

Select Committee on the Bill to amend the Patents and Designs Act.

1. Rajacharitavisharada Rao Sahib C.Hayavadana Rao, Esq., B.A., B.L.,
2. P.Subbarama Chetty, Esq.,
3. N.Lakshminaranappa, Esq., B.A., LL.B.,
4. N.Balakrishnaiya, Esq., B.A., LL.B.,
5. M.S.Ramachendra Rao, Esq., B.A.,
6. M.Venkatanaranappa, Esq., B.A.,

First Member of Council (Chairman)

3

Government of His Highness the Maharaja of Mysore.

General and Revenue Secretariat.

No.P.5688-93 Dated Bangalore the 27th April 1939.

OFFICIAL MEMORANDUM.

A meeting of the Select Committee appointed to consider the Mysore Patents and Designs (amendment) Bill will be held in the Chambers of the First Member of Council, Public Offices Buildings, Bangalore at 1 P.M. on Tuesday the 2nd May 1939.

By Order,

27/4

Secretary to the Committee.

To the Members of the Select Committee.

Select Committee on the Bill to amend the Patents and Designs Act.

1. Rajacharitavisharada Rao Sahib C.Hayavadana Rao, Esq., B.A., B.L.,
2. P.Subbarama Chetty, Esq.,
3. N.Lakshminaranappa, Esq., B.A., LL.B.,
4. N.Balakrishnaiya, Esq., B.A., LL.B.,
5. M.S.Ramachendra Rao, Esq., B.A.,
6. M.Venkatanaranappa, Esq., B.A.,

First Member of Council (Chairman)

Government of His Highness the Maharaja of Mysore. 5

D.O.No.P.5963-8
Enc.1

General and Revenue Secretariat.

Dated Bangalore the 12th May 1939.

Dear Sir,

I am desired to send herewith a copy of the report of the Select Committee on the Mysore Patents and Designs (amendment) Bill and to request you to return the same with your approval thereon on or before Monday the 15th instant.

Yours sincerely,

12.5

1 C. Hayavadana Rao R
2 N. Subba Hegde
3 Mirle Nabbi Gowda
4 M. S. Ramachandra Rao R
5 M. Venkatasubbaiah R

E.D.L.P.5968-3
Encl.

Dated Bangalore the 12th May 19

Dear Sir,

I am desired to send herewith a copy of the Report of the Select Committee on the Mysore Stamp and Passing (amendment) Bill and to request you to return the same with your approval thereon on or before Monday the 15th instant.

Yours sincerely

No. P 5968

6

12th May 1939.

Dear Sir,

May I request you to be so good as to set in type the Mysore Patents and Designs (amendment) Bill as revised by the Select Committee, enclosed herewith. Six clean proofs may be sent to this office by Monday the 15th instant.

Yours sincerely,

hy
12.5

B.Venkatasubba Rao, Esq., B.A., LL.B.,
Superintendent, Government Printing,
Bangalore.

Pat-12-34.

Telegraphic Address:—"INDUSCOM"

GOVERNMENT OF MYSORE.

DEPARTMENT OF INDUSTRIES AND COMMERCE.

In reply please refer to
No. C1-Pat.177/33-34.
Encl, One.

OFFICE OF THE DIRECTOR,
Dated Bangalore, 14th May, 1934.

Loco 121-33-1

FROM

A. V. RAMANATHAN, ESQ., B.A.,
Director of Industries and Commerce in Mysore,
Bangalore (India).

To

S. Abdul Wajid, Esq., B.A.,
General Secretary to the Government
of Mysore, Bangalore.

SIR,

Ref:- Publication of Patents in Mysore.

I have the honour to state that Messrs. Remfry & Sons, Patent and Trade Mark Attorneys, Calcutta, have written to me enquiring if copies of printed specifications of patent applications accepted by the Patent Office of the Government of India were being received in this office and exposed for public inspection. Copy of their lette is sent herewith for reference. It is stated that if the printed copies of specifications accepted in British India are made availabl here, they might affect the validity of the application filed in the State owing to the prior publication of the subject matter of the patent in the State. The attorneys have sent a similar letter to the Secretary to Government, Development Department, which has been forwarded to me for disposal.

Printed copies of specifications of Indian Patent applications are being received in this office regularly and they are made accessible to the public for reference free of charge. There is an important point for consideration in this respect: If we send a repl to the attorneys stating that the specifications are exposed for public inspection in the State, it would lead to the position that owing to the prior publicity of the subject matter of these patent applications within the State of Mysore, no patent rights could be secured here; on the other hand, if we reply that they are not expos for public inspection within the State, it would mean going against the understanding subject to which, these patent specifications are being supplied to us free of charge by the Patent Office, Government of India. These specifications are being supplied to us free of co on the condition that they are made accessible to the public for reference or for copying free of charge and that similar specification of the Mysore Patent Office should be supplied free of charge to the Controller of Patents and Designs, Calcutta.

Whether this fact of specifications of Indian Patent applicatio being made available to the public in Mysore, constitutes prior publication and whether it affects the validity of applications filed ir the State are points for consideration. The mere fact that it is accessible to the public cannot be considered to be sufficient to co titute prior publication. According to Section 37 of the Mysore Patents and Designs Regulation, an invention for which a patent is to be granted should not have been publicly used or publicly made known in any part of Mysore prior to the date of application. But this question may be viewed from another point of view. Though it is a fact that the public have access to these documents, it is not cl

clear to what extent they are being availed of by the public and whether mere exposition is enough to ~~xxxxxx~~ constitute prior publication. It is pertinent to ask if there has been such a publication as to make the description a part of the public stock of information. The exposure of the specifications of Indian Patent applications ~~xxxxxxxx~~ in Mysore does not by itself constitute prior publication. It is very difficult to lay any hard and fast rule as to what amounts to publication; but considering the circumstances here the latter view seems more tenable in our case.

I therefore request you to be good enough to have this question examined in the Law Department of Government and to let me know the lines on which I should send a reply to Messrs. Remfry & Sons, Calcutta.

I have the honour to be,
Sir,
Your most obedient servant,

DIRECTOR.

ks)3.

Remfry & Son

Patent & Trade Mark Attorneys.

ESTABLISHED 1827

TELEPHONE: CALCUTTA 593
TELEGRAPHIC ADDRESSES:
PATENT DEPT.
"PATENTABLE, CALCUTTA."
LEGAL DEPT
"REMFRYS, CALCUTTA".

PARTNERS:
RUPERT REMFRY,
PATENT ATTORNEY AND NOTARY PUBLIC.
DOUGLAS H. REMFRY,
B.E., M.I.C.E., M.I.STRUCT.E., M.I.E. (INDIA)
PATENT AGENT AND
CHARTERED CONSULTING ENGINEER.

P.O. BOX 161

"GROSVENOR HOUSE"
21 OLD COURT HOUSE STREET
CALCUTTA

10

OUR REF Mysore Pats.

DATE 20th March 1934.

THE DIRECTOR OF INDUSTRIES & COMMERCE,
Mysore.

12610

Dear Sir,

re PUBLICATION OF PATENTS IN MYSORE.

We have the honour to enquire whether you receive copies of the printed Specifications of Patent Applications which have been accepted in British India. We understand from the Controller of Patents in Calcutta, copies of all Indian Patent Specifications are sent to you. We should be glad to know if this is so, and if the said copies are placed in a position where the Public may have access thereto. We also desire to know most particularly whether these Specifications are in British India, or whether they are exposed for inspection in the State of Mysore.

Our reason for asking is this, that if the said Specifications are so placed in a Library that they can be seen in British India, they do not constitute publication in the State of Mysore, whereas if they are available in the State of Mysore, they might affect the validity of Applications filed in the Mysore State, owing to the fact that they may constitute publication in that State.

What we desire to know is are these Specifications received by you exposed for public reference in British India or are they exposed in Mysore State?

Yours faithfully,

IG

C/
H. K. Rao
26/3/34
126-3-34

Pol-12-84-2

Draft

4

Pol. 1031 & 21/3/35

To

The Secretary to the Hon'ble
the Resident in Mysore.

Sir,

I am directed to invite reference to this office letter No.Pol.205 Part 17-26-4 dated 11th August 1927 - enquiring whether the Government of India would be willing to enter into reciprocal arrangements with the Government of Mysore in the matter the protection of Inventions and designs and to the reply thereto conveyed in Major K.A.G.Evans Gordon's letter No.353/275-1893 dated 12th January 1928. ~~and to state that~~ the Indian Patents and Designs Act has since been amended by Act No.VII of 1930 so as to admit of reciprocal arrangements with Indian States. ~~in this connection.~~

I am therefore to request that ~~favour of moving~~ the Hon'ble the Resident in Mysore may be pleased to address the Government of India and ~~with a view to~~ ascertain their views about entering into reciprocal arrangements with the Government of Mysore in the matter.

I have &c.,

dcs 16/3/35

Development Secretary.

12

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE

General and Revenue Secretariat

Dated, Bangalore, 20th March 193 5

No. Pol. 1031

21 Sh

From

M. Venkatanaranappa, Esq., B.A.,

Secretary to the Government of His Highness the Maharaja of Mysore,

Development Department, Bangalore.

To

The Secy to the Resident

Sir,

I am directed to invite reference to this office letter No.Pol. 205 Pat.17-26-4 dated 11th August 1927 enquiring whether the Government of India would be willing to enter into reciprocal arrangements with the Government of Mysore in the matter of the protection of Inventions and designs and to the reply thereto conveyed in Major K.A. Evans Gordon's letter No.353/275-1893 dated 12th January 1928. The Indian Patents and Designs Act has since been amended by Act No. VII of 1930 so as to admit of reciprocal arrangements with Indian States and I am therefore to request that the the Hon'ble the Resident in Mysore may be moved to address the Government of India and ascertain their views about entering into reciprocal arrangements with the Government of Mysore in the matter.

I have the honour to be,

Sir,

Your most obedient servant,

Secretary to Government,
Development Department.

psk-2

All Communications should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

No. F.498-35
R.O.I

FROM

Major C.G.N. Edwards, I.A.,
SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

To

The Secretary to the Government of
His Highness the Maharaja of Mysore,
Development Department.

Dated, Bangalore, the 26th Sept. 1935.

Subject.

Reciprocal arrangements for the protection of Patents and Designs between India and the Mysore State.

SIR,

I am directed to refer to your letter No.Pol.1031/Law 121-33, dated the 21st March 1935, and to say that the Government of India have pointed out that Section 75 of the Mysore Patents and Designs Regulation, 1925, differs from section 78A of the Indian Patents and Designs Act, 1911 (Act II of 1911) as amended by Act VII of 1930, in the following respects:--

(a) The right of the legal representative or assignee of the British Indian applicant to claim priority in the Mysore State is not specifically recognised;

(b) The time limit for filing applications for reciprocity of designs under the Mysore Regulation is four months from the date of the application in British India, as against six months under the British Indian Act.

2. The Government of India have intimated that they will have no objection to entering into reciprocal arrangements with the Government of Mysore if their Regulation is brought into line with the British Indian Act in these two respects.

I have the honour to be,
Sir,
Your most obedient servant,

SECRETARY TO THE RESIDENT.

[To be introduced in the Legislative Assembly.]

A

BILL

Further to amend the law relating to the protection of Inventions and Designs.

WHEREAS it is expedient further to amend the law relating to the protection of Inventions and Designs; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Indian Patents and Designs (Amendment) Act, 193

Amendment of section 2, Act II of 1911.

2. In clause (*8*) of section 2 of the Indian Patents and Designs Act, 1911 (hereinafter referred to as the said Act), the words " manner of " shall be omitted.

II of 1911.

Amendment of section 5, Act II of 1911.

3. In section 5 of the said Act,—

(*a*) in sub-section (*1*),—

(*i*) for the words " examine every application, and if he considers " the words " refer every application to an Examiner and if satisfied on the report of the Examiner " shall be substituted ;

(*ii*) in clause (*e*), the words " *prima facie* " shall be omitted ;

(*iii*) for clause (*f*) the following clauses shall be substituted, namely :—

" (*f*) the invention has been publicly used in any part of British India or has been made publicly known in any part of British India, or

(*g*) the invention as described and claimed is of no utility, or

(*h*) the specification relates to more than one invention, or

(*i*) in the case of an application claiming priority under section 78A, the specification describes and claims an invention substantially larger than or substantially different from the invention by virtue of which priority is claimed, or

(*j*) in the case of an application for a patent of addition under section 15A, the invention described and claimed in the specification is not an improvement or modification of that described and claimed in the original specification," ;

(*b*) after sub-section (*1*) the following sub-section shall be inserted, namely :—

"(*1A*) If the Controller considers, at any time before the acceptance of an application, that the invention claimed therein has been wholly or in part claimed in a specification published on or after the date which the patent applied for would bear if granted, appertaining to an application for a patent which if granted will be of prior date to the patent applied for, he may require that the applicant's specification be amended by the insertion of a reference to such other specification, by way of notice to the public." ;

15

(*c*) in sub-section (*2*), after the word "amendment" the words "or the insertion of a reference" shall be inserted ; and

(*d*) in the proviso to sub-section (*4*),—

(*i*) the words "by any period not exceeding three months" shall be omitted ; and

(*ii*) for the words "during, but not beyond the period of extension so requested" the words "for any period so requested not exceeding in all three months from the expiration of the said period of twelve months" shall be substituted.

Amendment of section 10, Act II of 1911.

4. In clause (*b*) of the proviso to sub-section (*2*) of section 10 of the said Act, after the word "patent", where it occurs for the first time, the words "or by any proceedings taken for obtaining a direction of the Controller under the provisions of sub-section (*1A*)" shall be inserted.

Amendment of section 14, Act II of 1911.

5. In the proviso to sub-section (*2*) of section 14 of the said Act,—

(*a*) the words "by any period not exceeding three months" shall be omitted ; and

(*b*) for the words "during, but not beyond, the period of extension applied for" the words "for any period so applied for not exceeding in all three months from the expiration of the time for payment" shall be substituted.

Amendment of section 15, Act II of 1911.

6. In section 15 of the said Act, for sub-sections (*5*) and (*6*) the following sub-sections shall be substituted, namely :—

"(*5*) The Central Government or the High Court to which a petition is referred shall in considering the petition have regard to the nature and merits of the invention in relation to the public, to the profits made on the patent and to all the circumstances of the case.

(*6*) If it appears to the Central Government or to the High Court when the petition is referred to it, that the patent has not been sufficiently remunerative, the Central Government or the High Court, as the case may be, may by order extend the term of the patent for a further term not exceeding five or in exceptional cases ten years or may order the grant of a new patent for such term as may be specified in the order and subject to any restriction, conditions and provisions which the Central Government or the High Court, as the case may be, may think fit."

Amendment of section 26, Act II of 1911.

7. In sub-section (*1*) of section 26 of the said Act,—

(*a*) for clause (*b*) the following clauses shall be substituted, namely :—

"(*b*) that any invention included in the statement of claim was not, at the date of application for a patent, a new manufacture or improvement ;

(*bb*) that any invention included in the statement of claim had, before the date of the application for a patent thereon, been publicly used in any part of British India or been made publicly known in any part of British India ;

(*bbb*) that the inventor had, before the date of the application for a patent, by secret or experimental user made direct or in direct profits

from his invention in excess of such an amount as the Court may in consideration of all the circumstances of the case deem reasonable ; " ; and

(*b*) in clause (*c*), after the word " not " the words " or, where the application was a joint one, that no one of the applicants was " shall be inserted.

Amendment of section 29, Act II of 1911.

8. In sub-section (*2*) of section 29 of the said Act, for the words " this Act " the word and figure " section 26 " shall be substituted.

Substitution of new section for section 38, Act II of 1911.

9. For section 38 of the said Act the following section shall be substituted, namely :—

Public use or knowledge of invention.

" 38. The public use or knowledge of an invention before the date of the application for a patent thereon shall not be deemed a public use or knowledge within the meaning of clause (*f*) of sub-section (*1*) of section 5, or clause (*d*) of sub-section (*1*) of section 9 or clause (*bb*) of sub-section (*1*) of section 26 if the knowledge has been obtained surreptitiously or in fraud of the true and first inventor or has been communicated to the public in fraud of such inventor or in breach of confidence :

Provided that such inventor has not acquiesced in the public use of his invention, and that, within six months after the commencement of such use, he applies for a patent."

Substitution of new section for section 40, Act II of 1911.

10. For section 40 of the said Act the following section shall be substituted, namely :—

Provisions as to exhibitions.

" 40. The exhibition of an invention at an industrial or other exhibition to which the provisions of this section have been extended by the Central Government by notification in the Official Gazette, or the publication of any description of the invention during the period of the holding of the exhibition, or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention or the publication of any description thereof, during or after the period of the holding of the exhibition, by any person elsewhere without the privity or consent of the inventor shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention, or the validity of any patent granted on the application :

Provided that—

(*a*) the exhibitor exhibiting the invention gives to the Controller previous notice in the prescribed form ; and

(*b*) the application for a patent is made before or within six months from the date of first exhibiting the invention."

Amendment of section 47, Act II of 1911.

11. In sub-sections (*2*) and (*3*) of section 47 of the said Act, the words " within the prescribed time " shall be omitted.

Substitution of new section for section 52, Act II of 1911.

12. For section 52 of the said Act the following section shall be substituted, namely :—

Provisions as to exhibitions.

" 52. The exhibition of a design, or of any article to which a design is applied, at an industrial or other exhibition to which the provisions of

this section have been extended by the Central Government by notification in the Official Gazette, or the publication of a description of the design, during the period of the holding of the exhibition, or the exhibition of the design or the article or the publication of a description of the design by any person elsewhere during or after the period of the holding of the exhibition, without the privity or consent of the proprietor, shall not prevent the design from being registered or invalidate the registration thereof:

Provided that—

(*a*) the exhibitor exhibiting the design or article, or publishing a description of the design, gives to the Controller previous notice in the prescribed form ; and

(*b*) the application for registration is made within six months from the date of first exhibiting the design or article or publishing a description of the design."

Amendment of section 53, Act II of 1911.

13. In sub-section (*1*) of section 53 of the said Act, after clause (*a*) the following clause shall be inserted, namely :—

"(*aa*) to import for the purposes of sale, without the consent of the registered proprietor, any article to which the design or any fraudulent or obvious imitation thereof has been applied ; or ".

Insertion of new section 59A in Act II of 1911.

Information relating to patents.

14. After section 59 of the said Act, the following section shall be inserted, namely :—

" 59A. A person making a request to the Controller in the prescribed manner as respects any patent specified in the request or as respects any application for a patent so specified, for information to be furnished to him by the Controller of any such matters as may be prescribed affecting that patent or application, shall be entitled, subject to the payment of the prescribed fee, to have information supplied to him accordingly."

Substitution of new section for section 60, Act II of 1911.

Privilege of reports of Examiners.

15. For section 60 of the said Act the following section shall be substituted, namely :—

" 60. Reports of Examiners made under this Act shall not in any case be published or be open to public inspection."

Amendment of section 65, Act II of 1911.

16. In section 65 of the said Act, the word " and ", in the first three places where it occurs, shall be omitted, and for the words " compelling the production of documents and awarding costs " the words " compelling the discovery and production of documents, issuing commissions for the examining of witnesses and awarding and realising costs " shall be substituted.

Insertion of new section 70A in Act II of 1911.

Evidence before the Controller.

17. After the heading " *Evidence, etc.* " and before section 71 of the said Act, the following section shall be inserted, namely :—

" 70A. Subject to any rules made under section 77, in any proceeding under this Act before the Controller, the evidence shall be given by affidavit, in the absence of directions by the Controller to the contrary ; but in any case in which the Controller thinks it right so to do

he may take evidence *viva voce* in lieu of or in addition to evidence by affidavit or may allow any party to be cross-examined on the contents of his affidavit."

Insertion of new section 71A in Act II of 1911.

18. After section 71 of the said Act the following section shall be inserted, namely :—

Evidence of documents in Patent Office.

"71A. Printed or written copies or extracts, purporting to be certified by the Controller and sealed with the seal of the Patent Office, of or from patents, specifications and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all Courts in British India, and in all proceedings, without further proof or production of the originals :

Provided that a Court may, if it sees reasons to doubt the accuracy or authenticity of the copies tendered in evidence, require the production of the originals or such further proof as it considers necessary.".

Substitution of new section for section 72, Act II of 1911.

19. For section 72 of the said Act, the following section shall be substituted, namely :—

Transmission of copies of specifications, etc., and inspection thereof.

"72. Copies of all such specifications, drawings and amendments left at the Patent Office, as become open to public inspection under the provisions of this Act, shall be transmitted, as soon as may be, after the printed copies thereof are available, to such authorities as the Central Government may appoint in this behalf, and shall be open to the inspection of any person at all reasonable times at places to be appointed by those authorities and approved by the Central Government."

Amendment of section 78A, Act II of 1911.

20. In sub-section (*1*) of section 78A of the said Act,—

(*a*) after the words "assignee shall" the words ", either alone or jointly with any other person," shall be inserted ; and

(*b*) for the words "be entitled to a patent for his invention or to registration of his design under this Act, in priority to other applicants ; and the patent or registration shall have" the words "be entitled to claim that the patent that may be granted to him under this Act, for the said invention or the registration of the said design under this Act, shall be in priority to other applicants and shall have" shall be substituted.

Amendment of Schedule, Act II of 1911.

21. In the Schedule to the said Act, for the words "Before the expiration of", where they occur in the penultimate entry, the words "In respect of" shall be substituted.

Amendment of section 18, Act VIII of 1878.

22. In section 18 of the Indian Sea Customs Act, VIII of 1878. 1878, after clause (*f*) the following clause shall be inserted, namely :—

"(*ff*) goods made or produced beyond the limits of British India and intended for sale, and having applied thereto, a design in which copyright exists under the Indian Patents and Designs Act, 1911, in respect of the class to which the goods belong or any fraudulent or obvious imitation of such design except the application of such design has been made with the license or written consent of the registered proprietor of the design ;".

STATEMENT OF OBJECTS AND REASONS.

The necessity for amending the law in order to put a stop to the import of goods bearing pirated designs registered under the Indian Patents and Designs Act, 1911, has recently been brought to notice and experience has shown that certain further amendments of that Act to improve the law in minor respects are desirable. The proposals in the Bill, which are explained in the notes on clauses, are designed to achieve these objects.

SIMLA ; T. A. STEWART.

The 16th August, 1937.

NOTES ON CLAUSES.

Clause 2.—The words " manner of " are redundant.

Clause 3 (a) (i).—The amendment is designed to bring the law into conformity with existing practice and is based on section 6 of the United Kingdom Patents and Designs Act, 1907.

Clause 3 (a) (ii).—This is designed to enable the Patent Office to cite prior specifications and documents by way of anticipation of the invention and brings the law into conformity with existing practice.

Clause 3 (a) (iii) (f).—Previous public use or knowledge of an invention is a ground on which the Controller can refuse the grant of a patent in opposition proceedings under section 9. The amendment now proposed will enable the Controller to consider this ground and take action under section 5 when considering an application for a patent initially.

Clause 3 (a) (iii) (g).—The requirement of utility is indispensable for an invention. While a patent can be revoked by a High Court on the ground of lack of utility, there is no specific provision under which the Controller can refuse an application for a patent on the same ground. The amendment will remove the defect.

Clause 3 (a) (iii) (h).—This corresponds to the existing clause (*f*) of section 5 (*1*).

Clause 3 (a) (iii) (i).—Applicants claiming the benefits of section 78A of the Act frequently include in their Indian specifications subject-matter in excess of that disclosed in the corresponding specifications filed by them abroad on the date claimed for the Indian patent. The amendment provides for the examination of this aspect of the priority specifications.

Clause 3 (a) (iii) (j).—Every alleged modification for which a patent of addition is sought under section 15A of the Act may not be a fit subject for such a patent. The amendment will enable the Patent Office to regulate the grant of patents of this class.

Clause 3 (b).—This corresponds to section 8 of the United Kingdom Patents and Designs Act, 1907, and is intended to safeguard the interests of the public where the grant of a patent is likely to conflict with a prior grant. It conforms to existing practice.

Clause 3 (c).—This amendment is consequential on the amendment in clause 3 (*b*) above.

Clause 3 (d).—This makes it clear that the extension of time permissible is 3 months from the date of the expiration of the period of 12 months.

Clause 4.—A minor amendment which follows the provision in section 12 (*4*) (*b*) of the United Kingdom Patents and Designs Act, 1907.

Clause 5.—The same reasons apply as in the case of the amendment proposed in clause 3 (*d*) above.

Clause 6.—At present there is no statutory obligation on the part of the Central Government to follow the principles laid down for the High Court in section 15 (*5*), but in disposing of cases they generally follow these principles. The amendment brings the criteria for Government and High Courts into line and removes minor defects.

Clause 7 (*a*).—This amendment incorporates in this sub-section the definition of " new invention " now contained in section 38 (*1*) and brings the criteria in respect of novelty applicable in High Court proceedings into line with those which have to be followed by the Controller.

Clause 7 (*b*).—The amendment is necessary to cover joint applications; *cf.* section 3 (*3*).

Clause 8.—The existing wording seems to authorise defendants in infringement proceedings, to raise for the consideration of the Court questions which are specifically reserved for the Central Government by sections 22, 23 and 25 of the Act. The proposed amendment will remove the defect.

Clause 9.—Sub-section (*1*) of section 38 has been omitted as its provisions have been replaced by clauses (*bb*) and (*bbb*) of the proposed section 26 (*1*). The amendment of sub-section (*2*) of section 38 is consequential on the amendments proposed in sections 5 (*1*) and 26 (*1*) (*b*).

Clause 10.—The existing sub-section (*2*), which is intended to apply to exhibitions held outside India, has been omitted in the proposed amendment, which, with minor changes, follows the existing sub-section (*1*) and is comprehensive enough to cover exhibitions held within as well as outside India. The amended section also renders unnecessary the issue of a certificate by the Central Government and protects the rights of the invention for the grant of a patent even in cases where disclosure of the invention is made after the holding of the exhibition.

Clause 11.—The prescription of time serves no useful purpose.

Clause 12.—The same reasons apply here as in the case of the amendment in clause 10 above.

Clause 13.—To deal with the piracy of designs abroad it is essential that the owner should have a remedy against the importer of pirated designs without being required to prove that the importer was aware that the design was pirated.

Clause 14.—This addition is based on section 44A of the United Kingdom Patents and Designs Act, 1907, and is designed to assist the public.

Clause 15.—The amendment is consequential on the amendment in clause 3 (*a*) (*i*).

Clause 16.—The amendments relating to the deletion of the word " and and the addition of the words " discovery and " before the word " compelling are formal. The other amendments will empower the Controller to receive evidence by commission, which is desirable as witnesses who can give useful evidence often reside at a great distance from Calcutta, and to order the realisation of costs awarded by him.

Clause 17.—This is based on section 77 of the United Kingdom Patents and Designs Act, 1907, and will enable the Controller to prevent waste of time, as parties frequently summon witnesses to prove matters which could be adequately proved by affidavits.

Clause 18.—At present parties to proceedings in Courts, instead of obtaining on payment certified copies of public documents which are open to the inspection of the public in the Patent Office, arrange for the issue of sub-poenas by Courts on the Controller for the production of original documents. This practice causes unnecessary inconvenience.

Clause 19.—Copies of only those specifications which are open to public inspection are transmitted and not of all specifications. Moreover, copies transmitted are not certified or sealed with the seal of the Patent Office. The amendment brings the law into conformity with practice and also empowers the Central Government to appoint the authorities to whom copies of specifications are to be sent and to approve the places where inspection centres should be opened.

Clause 20 (*a*).—This is a verbal amendment which will enable persons to apply for a patent jointly with others.

Clause 20 (*b*).—This amendment makes it clear that any person who has applied for protection for any invention or design outside British India is not entitled to a patent or to registration of his design in British India as a matter of course; the application merely enables a claim which is good on its merit to secure priority and to be dated back.

Clause 21.—A formal amendment.

Clause 22.—This amendment will assist in stopping the import of goods bearing pirated designs. The section cited provides for the prohibition of import into British India of certain classes of goods.

A bill to amend the Patents and Designs Act, 1925.

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Whereas it is expedient to amend the Patents and Designs Act, 1925, it is here by enacted as follows:-

Short Title.

1. This Act may be called the Mysore Patents and Designs (amendment) Act, 193

Amendment of Section 2, Act III of 1925.

2. In Section 2 of the Mysore Patents and Designs Act, 1925, hereinafter referred to as the said Act,

(a) for clause (4), the following clause shall be substituted, namely:-

"(4) 'designs' means only the features of shape, configuration, pattern or ornament, applied to any article, by any industrial process or means whether manual, mechanical or chemical, separate or combined, which, in the finished article, appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device and does not include any trade mark as defined in Section 478 or property mark as defined in Section 479 of the Indian Penal Code as in force in Mysore.

(b) for clause (10) the following

clause shall be substituted, namely,

"(10) 'patentee' means the person for the time being entered on the register of patents kept under this Act as the grantee or proprietor of the patent."

(c) in clause (12), after the words "proprietor of a new", the word "or" shall be substituted for the word "and".

Amendment of Sec.5 Act III of 1925.

3. In section 5 of the said Act,-

(a) In sub-section (1),-

(i) in clause (b) the words "or relate to more than one invention" shall be omitted;

(ii) the following clause shall be inserted after clause (e), namely;

" or (f) The specification relates to more than one invention;" and

(iii) At the end of section 5(1), the following proviso shall be inserted:-

"Provided that, when a specification comprises more than one invention, the application shall, if the controller or the applicant, so requires, be restricted to one invention and the other inventions may be made the subject-matter of fresh applications; and any such fresh application shall be proceeded with as a substantive application, but the controller may, in his dis-

discretion, direct that any such fresh application made before the acceptance of the original application, shall bear the date of the original application or such later date as he may fix, and the fresh application shall be deemed, for the purposes of this Act, to have been made on the date which it bears in accordance with such direction"; and

(b) In sub-section (4),

the following proviso shall be substituted for the existing proviso, namely:-

"Provided that where, before or within three months after the expiration of the said period of twelve months a request is made to the controller for an extension of time by any period not exceeding three months the application shall on payment of the prescribed fee, be continued or revived, as the case may be, during but not beyond, the period of extension so requested."

Omission of Sec.8, Act III of 1925.

4. Section 8 shall be omitted.

Amendment of Sec.9, Act III of 1925.

5. In section 9 of the said Act, in sub-sections (1) and (2) for the words "three months" the words "four months" shall be substituted.

Amendment of Sec.10, Act III of 1925.

6. In section 10 of the said Act:-

(a) after sub section (1) the following sub-section shall be inserted, namely:-

"(1A) Notwithstanding anything contained in sub section (1), where:-

(a) an applicant has agreed in writing that on the grant to him of a patent he will assign it to another party or to a joint applicant and refuses to proceed with the application, or

(b) disputes arise between joint applicants as to proceeding with an application,

the controller, if he is satisfied of the existence of such agreement, or in any other case, that any joint applicant or applicants ought to be allowed to proceed alone, may direct that such other party or joint applicant or applicants may proceed with the application accordingly and may grant a patent to him or them as the case may be:

Provided that -

(i) the controller shall not ~~xx~~ give any such direction until every party interested has had an opportunity of being hear by him, and

(ii) an appeal from any such direction shall lie to the Government."

(b) in sub-section (2),-

(i) in clause (b) of the proviso, the words "or, by a reference under section 8" shall be omitted,

(ii) for clause (d) of the proviso, the following clause shall be substituted, namely

"(d) where for any reason, a patent cannot be sealed within the period allowed by any of the foregoing provisions of this section, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions, be extended to the extent applied for but not exceeding three months".

Amendment of Sec.11, Act III of 1925.

7. In the proviso to section 11 of the said Act, for the words "the publication of the specification" the words "the advertisement of the acceptance of the application" shall be substituted.

Amendment of Sec.13, Act III of 1925.

8. In section 13 of the said Act, for sub-section (2) the following sub-section shall be substituted, namely:-

"(2) where a patent has been revoked by the High Court on the ground that it has been obtained in fraud of the true and first inventor,or where the grant of a patent has been refused by the controller under

Section 9 on the ground stated in clause (a) of sub-section (1) of that section, the controller may, on the application of the true inventor or his legal representative or assign, made in accordance with the provisions of this Act, grant to him a patent for the whole or any part of the invention, and the patent so granted shall bear the same date as the patent so revoked or, in the case of a patent the grant of which has been refused, the same date as would have been borne by the patent if it has been granted:

Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted".

Amendment of Sec.14, Act III of 1925.

9. In section 14 of the said Act,

(a) in sub-section (1) for the words "fourteen years" the words "sixteen years" shall be substituted;

(b) after sub-section (1) the following sub-sections shall be inserted, namely:-

"(1A) Any patent the original term of which had not expired on or before the first day of - - - - - - 193 , shall have effect as if the term mentioned therein was sixteen years instead of fourteen

years, and any licence existing at that date which has been granted for the term of the patent shall be treated as having been granted for the term as so extended if the licensee so desires.

(1B) Where any party to a contract with the patentee or any other person entered into before the first day of - - - - - 193 , is subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction may determine in what manner and by which parties such loss or liability shall be borne",-

(c) in sub-section (2), for the proviso the following proviso shall be substituted, namely:-

"Provided that where the patentee, before or within three months after the expiration of the time for payment, applies to the controller for an extension of time by any period not exceeding three months, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived, as the case may be, during, but not beyond, the period of extension applied for".

Amendment of Sec.15, Act III of 1925.

10. In Section 15 of the said Act,-

(a) in sub-section (1),

(i) the words "after advertising in the prescribed manner his intention to do so" shall be omitted, and

(ii) after the words "prescribed fee", the words "and must be advertised by the patentee within the prescribed time and in the prescribed manner" shall be added;

(b) in sub-section (2), after the word "may" and before the words "give notice" the words "within such time as may be prescribed and on payment of the prescribed fee" shall be inserted;

(c) in sub-section (6), for the words ~~[illegible]~~ "seven" and "fourteen", the words "five" and "ten" shall be substituted.

Insertion of new section 15 A in Act III of 1925.

11. After section 15, the following section shall be inserted, namely:-

"15 A(1). Where a patent for an invention has been applied for or granted, and the applicant or the patentee, as the case may be, applies for a further patent in respect of any improvement in or modification of the invention, he may in his application for the further patent request that the term limited in that patent for

the duration thereof be the same as that of the original patent or so much of that term as is unexpired, and if he does so, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid.

(2) Save as otherwise expressly provided by this Act, a patent of addition shall remain in force as long as the patent for the original invention remains in force, but no longer, and in respect of a patent of addition no fees shall be payable for renewal:

Provided that if the patent for the original invention is revoked, then the patent of addition shall, if the authority by which it is revoked so orders, become an independent patent, and the fees payable, and the dates when they become payable, shall be determined by its date, but its duration shall not exceed the unexpired term of the patent for the original invention;

(3) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention

ought to have been the subject of an independent patent."

Amendment of Section 18, Act III of 1925.

12. In section 18 of the said Act, after the word "disclaimer" and before the words "in such manner", the words "correction or explanation" shall be inserted.

Amendment of Section 19, Act III of 1925.

13. In section 19 of the said Act, for the words "before the disclaimer, correction or explanation", the words "before the date of the decision allowing the amendment" shall be substituted.

Amendment of Section 20, Act III of 1925.

14. In sub-section (4) of section 20 of the said Act, the words beginning with "and, unless" and ending with "affecting a patent" shall be omitted.

Substitution of new section for section 21, Act III of 1925.

15. For section 21 of the said Act, the following sections shall be substituted, namely:-

"21 (1) Subject to the other provisions of this section, a patent shall have to all intents the like effect as against the Government of Mysore as it has against a subject.

(2) The officers or authorities administering any department of the

service of the Government of Mysore, may, by themselves or by such of their agents, contractors or others, as may be authorised in writing by them, at any time after the application, and after giving notice to the applicant or patentee, make, use or exercise the invention for the service of the Government on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Government, between such officers or authorities and the applicant or patentee, or in default of agreement as may be settled in the manner hereinafter provided. And the terms of any agreement or licence concluded between the applicant or patentee and any person other than such officers or authorities, shall be inoperative as far as concerns the making, use or exercise of the invention for the service of the Government.

(3) Where an invention which is the subject of any patent has, before the date of the patent, been duly recorded in a document by, or tried by or on behalf of, the officers or authorities administering any department of the service of the Government (such invention not having been communicated

directly or indirectly by the applicant or patentee), such officers or authorities or such of their agents, contractors or others, as may be authorised in writing by them, may, after giving notice to the applicant or patentee, make, use or exercise the invention so recorded or tried for the service of the Government, free of any royalty or other payment to the applicant or patentee, notwithstanding the existence of the patent. If, in the opinion of such officers or authorities, the disclosure to the applicant or patentee, as the case may be, of the document recording the invention or the evidence of the trial thereof, if required would be detrimental to the public interest, it may be made confidentially to counsel on behalf of the applicant or patentee, or to any independent expert mutually agreed upon.

(4) In the event of any dispute as to the making use or exercise of an invention under this section, or the terms therefor, or as to the existence or scope of any record or trial as aforesaid, the matter shall be referred to the High Court for decision, who shall have power

to refer the whole matter or any question or issue of fact arising thereon to be tried before a special or official referee or an arbitrator upon such terms as it may direct. The Court, referee or arbitrator, as the case may be, may, with the consent of the parties, take into consideration the validity of the patent for the purposes only of the reference and for the determination of the issues between the applicant or patentee and such officers or authorities. The Court, referee or arbitrator, further, in settling the terms as aforesaid, shall be entitled to take into consideration any benefit or compensation which the applicant or patentee, or any other person interested in the patent, may have received directly or indirectly, from the Government or from such officers or authorities in respect of such patent:

Provided that, if the inventor or patentee is a Government servant and the subject matter of the invention is certified by the Government, to be connected with work done in the course of such service, any such dispute shall be settled by the Government after hearing the applicant or patentee and any other person

having an interest in the invention or patent.

(5) The right to use an invention for the services of the Government under the provisions of this section, or any provisions for which this section is substituted, shall include, and shall be deemed always to have included, the power to sell any articles made in pursuance of such right which are no longer required for the services of the Government.

(6) Nothing in this section shall affect the right of the Government or of any person deriving title directly or indirectly from the Government to sell or use any articles forfeited under any law for the time being in force relating to customs or excise."

Amendment of Section 22, Act III of 1925.

16. In section 22 of the said Act,

(a) in sub-section (1) for the words beginning with "reasonable requirements" and ending with the word "satisfied" the words "the demand for a patented article in Mysore is not being met to an adquate extent and on reasonable terms" shall be substituted;

(b) in sub-section (4),-

(i) for the words beginning with "the reasonable requirements" and ending with

"not been satisfied", the words "the demand for the patented article in Mysore is not being met to an adequate extent and on reasonable terms" shall be substituted; and

(ii) for the words "the reasonable requirements of the public will not be satisfied" the words "the demand will not be adequately met" shall be substituted;

(c) in sub-section (5),-

(i) for the words "the reasonable requirements of the public shall not be deemed to have been satisfied" the words "the demand for a patented article shall not be deemed to have been met to an adequate extent and on reasonable terms" shall be substituted;

(ii) in clause (a) the words beginning with "or the demand" and ending with "reasonably met" shall be omitted; and

(iii) in clause (b) the words "before or after the commencement of this Act" shall be omitted; and

(d) sub-section (6) shall be omitted.

Amendment of Section 23, Act III of 1925.

17. In Section 23 of the said Act,-

(a) in sub-section (1), for the words "for the revocation of the patent" the words "for relief under this section"

shall be substituted; and

(b) in sub-section (2), ~~(1) after~~ (i) after the words "an order" and before the word "revoking" the letter and bracket "(a)" shall be inserted; and

(ii) after clause (ii) the following shall be added, namely:-

"Or (b) ~~(b) or~~ ordering the patentee to grant a licence to the applicant which may be a licence exclusive to him or otherwise as the Government may direct".

Insertion of new section 23 A in Act III of 1925.

18. After section 23 of the said Act, the following section shall be inserted, namely:-

Operation of order under Sec.22 or Sec.23.

"23A. An order of the High Court under section 22 or of the Government under section 22 or section 23 directing the grant of any licence shall, without prejudice to any other method of enforcement, operate, as if it were embodied in a deed granting a licence and executed by the patentee and all other necessary parties".

Amendment of Section 26, Act III of 1925.

19. In clause (g) of sub-section (1) of section 26 of the said Act, before the words "a part" wherever they occur the words "the whole or" shall be inserted.

Amendment of Section 34, Act III of 1925.

20. In sub-section (1) of section 34 of the said Act, for the words "either of" the word "all" shall be substituted.

Insertion of new Section 34A in Act III of 1925.

21. After section 34 of the said Act, the following section shall be inserted, namely:-

Grant of relief in respect of particular claims.

"34A. Notwithstanding anything contained in section 19, if the Court in any action for infringement of a patent finds that any one or more of the claims in the specification in respect of which the infringement is alleged are valid, it may, subject to its discretion as to costs and as to the date from which damages should be reckoned and to such terms as to amendment as it may deem desirable, grant relief in respect of any of such claims which are infringed without regard to the invalidity of any other claim in the specification. In exercising such discretion the Court may take into consideration the conduct of the parties in inserting such invalid claims in the specification or permitting them to remain there."

Amendment of Section 35, Act III of 1925.

22. In section 35 of the said Act,-

(i) for the words "to be the patentee of an invention" the words "to have an interest in a patent" shall be substituted;-

(ii) for the words "any legal rights of the person making such threats" the words "the patent" shall be substituted; and

(iii) in the proviso, for the words beginning with "if a person" and ending with the words "this patent" the words "if an action for infringement of the patent is commenced and prosecuted with due diligence" shall be substituted.

Amendment of Section 41, Act III of 1925.

23. In section 41 of the said Act,-

(i) in clause (a) for the word "and" the word "or" shall be substituted;

(ii) after clause (b) the following proviso shall be ~~substituted~~ added, namely

"Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from previsous registration."

Insertion of new sections 48 A. and 48B in Act III of 1925.

24. After section 48 of the said Act, the following sections shall be inserted, namely:-

Cancellation of Registration.

"48A (1) Any person interested may present a petition for the cancellation of the registration of a design -

(a) at any time after the registration of the design, to the High Court on any of the following grounds, namely:-

(i) that the design has been previously registered in Mysore; or

(ii) that it has been published in Mysore prior to the date of registration; or

(iii) that the design is not a new or original design; or

(b) within one year from the date of the registration, to the controller on either of the grounds specified in sub clauses (i) and (ii) of clause (a).

(2)An appeal shall lie from any order of the Controller under this section to the High Court, and the Controller may at any time refer any such petition to the High Court, and the High Court shall decide any petition so referred.

Registration of design to bind the Government.

48 B. The provisions of section 21 shall apply to registered designs as if those provisions were re-enacted herein and in terms made applicable to registered designs".

Amendment of section 59, Act III of 1925.

25. Clause (b) of section 59 of the said Act shall be omitted.

Substitution of new section for Section 60, Act III of 1925.

26. For section 60 of the said Act, the following section shall be substituted namely:-

"60 (1) where a person becomes entitled by assignment, transmission or other operation of law to a patent or to the copyright in a registered design, he may make application to the Controller to register his title, and the Controller shall, ~~on~~ on receipt of such application and on proof of title to his satisfaction, register him as the proprietor of such patent or design, and shall cause an entry to be made in the prescribed manner in the register of the assignment, transmission or other instrument affecting the title.

(2) where any person becomes entitled as mortgagee, licensee or otherwise to any interest in a patent or registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be, with particulars of the instrument, if any, creating such interest.

(3) The person registered as the proprietor of a patent or design, shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licences as to, or otherwise deal with, the patent or design and to give effectual receipts for any consideration for any such assignment,

licence or dealing:

Provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other movable property.

(4) Except in the case of an application made under Section 61, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-sections (1) and (2) shall not be admitted in evidence in any court in proof of the title to a patent or to copyright in a design or to any interest therein unless the Court, for reasons to be recorded in writing, otherwise directs."

Amendment of Section 61, Act III of 1925.

27. In Section 61 of the said Act, (a) in sub section (1) for the words "the High Court" the words "the Controller" and for the words "as it may think fit" the words "as he thinks fit" shall be substituted;

(b) In sub-section (2) for the word "Court" the word "Controller" shall be substituted;

(c) for sub-section (3) the following sub-section shall be substituted, namely:-

"(3) An appeal shall lie to the High Court from any order of the Controller under this section; and the Controller may refer any application under this section to the High Court for decision, and the High Court shall dispose of any application so referred ~~and~~ and

and (d) After sub-section (4) the following sub-section shall be inserted, namely:-

"(5) Nothing in this section shall be

deemed to empower the Controller -

(a) to rectify the register of patents, or to decide any question relating to a patent, otherwise than for the purpose of correcting a mistake of fact apparent from a reference either to the patent itself or to some order of a competent authority made under any other provision of this Act, or

(b) to make any such order cancelling the registration of a design, as is provided for in Section 48 A".

Amendment of Section 66, Act III of 1925.

28. Section 66 of the said Act shall be renumbered as sub-section (1) of that section and to that sub-section as so renumbered the following sub-section shall be added, namely:-

"(2) An appeal shall lie to the Government from an order of the Controller under this section."

Amendment of Section 67, Act III of 1925.

29. In sub-sections (1) and (2) of section 67 of the said Act, for the word "two" the word "three" shall be substituted.

Insertion of new section 70A in Act III of 1925.

30. After section 70 of the said Act, the following section shall be inserted, namely:-

Security for costs

"70 A. Security for costs. Where a person giving notice of any opposition under this Act or giving notice to the Court of appeal from any decision of the Controller under this Act, neither resides nor carries on business in Mysore, the Controller or the Court, as the case may be, may require such person to give security for the payment of all costs incurred and likely to be incurred in the proceedings or appeal, as the case may be, and, in default of such security being

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After clause (e) of sub-section (1) of Section 73 of the said Act, the following shall be added, namely :-

"(ee) for the manner in which fees leviable under ~~this~~ this Act may be paid;".

~~Section 73~~

Amendment of Section 73, Act III of 1925.

given, may disallow the opposition or dismiss the appeal".

Amendment of Section 75, Act III of 1925. → 31 ⊗

32. In section 75 of the said Act -

(a) in sub-section (1) after the words "the other State" and before the words "shall be entitled" the words " or his legal representative or assignee" shall be inserted;

(b) in proviso (a) to sub-section (1) for the word "four" the word "six" shall be substituted.

Substitution of a new schedule for the existing schedule to Act III of 1925.

33. The following schedule shall be substituted for the schedule to the said Act:-

The Schedule.

(See Section 54)

Fees.	Rs
On application for a patent.	10
Before sealing a patent.	30
Before the expiration of the 4th year from the date of the patent.	50
Before the expiration of the 5th year from the date of the patent.	50
Before the expiration of the 6th year from the date of the patent.	50
Before the expiration of the 7th year from the date of the patent.	50
Before the expiration of the 8th year from the date of the patent.	100
Before the expiration of the 9th year from the date of the patent.	100
Before the expiration of the 10th year from the date of the patent.	100
Before the expiration of the 11th year from the date of the patent.	100

Before the expiration of the 12th year from the date of the patent.	150
Before the expiration of the 13th year from the date of the patent.	150
Before the expiration of the 14th year from the date of the patent.	150
Before the expiration of the 15th year from the date of the patent.	150
Provided that fees for two or more years may be paid in advance.	
On application to extend the term of a patent.	50
Before the expiration of each year of the extended term of a patent or of a new patent granted under section 15.	150
On application for registration of a design.	3

A bill ~~further~~ to amend the ~~law relating to the protection of~~ Patents and Designs Act, 1925.

Whereas it is expedient ~~further~~ to amend the ~~law relating to the protection of~~ Patents and Designs Act, 1925, ~~His Highness the Maharaja~~ is ~~pleased to~~ hereby enacted as follows:-

Short title.

1. This Act may be called the Mysore Patents and Designs (amendment) Act, 193

Amendment of ~~Substitution of new section for~~ Section 2 ~~(4)~~, Act III of 1925.

2. In ~~For~~ Section 2 ~~(4)~~ of the (the Mysore Patents and Designs Act, 1925) said Act, ~~the~~ following clause shall be substituted, namely:-

(a) for clause (4) this

"~~Section 2~~(4) 'design' means only the features of shape, configuration, pattern or ornament, applied to any article, by any industrial process or means whether manual, mechanical or chemical, separate or combined, which on the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device and does not include any trade mark as defined in Section 478 or property mark as defined in Section 479 of the Indian Penal Code as in force in Mysore".

(b) For clause (10) the following clause

Amendment of Section 2 of Act III of 1925.

~~3. In section 2 of the said Act,-~~ shall be substituted, namely:-

~~(a) in sub-section (10), the words "entitled to the benefit of a patent" shall be omitted and after the words~~ "for the time being", ~~the words~~ "entered on the register of patents kept under this Act as the grantee or proprietor of the patent" ~~shall be added.~~

(10) 'patentee' means this person

(b) In ~~sub-section~~ clause (12) after the words "proprietor of a patent" the word "or" shall be substituted for the word "and".

Amendment of Section 5, Act III of 1925.

~~4~~. In section 5 of the said Act,-

(a) In sub-section (1),-

(i) in clause (b), the words "or relate to more than one invention" shall be ~~deleted~~ omitted;

Insertion of new clause (f) in Act III of 1925.

(ii) The following clause shall be inserted after clause (e), namely:-

"(f) The specification relates to more than one invention"; and

Insertion of new proviso at the end of Section 5 in Act III of 1925.

(iii) At the end of Section 5 (1), the following proviso shall be inserted: —

"Provided that, when a specification comprises more than one invention, the application shall, if the controller or the applicant, so requires, be restricted to one invention and the other inventions may be made the subject-matter of fresh applications; and any such fresh application shall be proceeded with ~~either~~ as a substantive application, but the controller may, in his discretion, direct that any such fresh application made before the acceptance of the original application, shall bear the date of the original application or such later date as he may fix, and the fresh application shall be deemed, for the purposes of this Act, to have been made on the date which it bears in accordance with such direction and

Substitution of new proviso for proviso to sub-section 4 of Section 5, Act III of 1925.

(b) in sub-section (4)

the following proviso shall be substituted for the existing proviso, namely:— ~~to sub-section 4 of Section 5:~~ —

"Provided that where, before or within three months after the expiration of the said period of twelve months a request is made to the controller for an extension of time by any period not exceeding three months, the application shall on payment of the prescribed fee, be continued or revived, as the case may be, during but not beyond, the period of extension so requested".

Omission of Section 8, Act III of 1925.

4 5. Section 8 shall be omitted.

Amendment of Section 9, Act III of 1925.

5 6. In section 9 of the said Act in sub-sections (1) and (2) for the words " three months" the words "four months" shall be substituted.

Amendment of Section 10, Act III of 1925.

6 7. In section 10 of the said Act:-

(a) after sub section (1) the following sub-section shall be inserted, namely:-

"(1A) Notwithstanding anything contained in sub section (1) where:-

(a) an applicant has agreed in writing that on the grant to him of a patent he will assign it to another party or to a joint applicant and refuses to proceed with the application or

(b) disputes arise between joint applicants as to proceeding with an application, the controller, if he is satisfied of the existence of such agreement or, in any other case, that any joint applicant or applicants ought to be allowed to proceed alone, may direct that such other party or joint applicant or applicants may proceed with the application accordingly and may grant a patent to him or them as the case may be

Provided that-

(i) the controller shall not be given any such direction until every party interested has had an opportunity of being heard by him, and

(ii) an appeal from any such direction shall lie to the Government."

(b) in sub-section (2),-

(i) in clause (b) of the proviso, the words "or by a reference under Section 8" shall be omitted.

(ii) for clause (d) of the proviso, the following clause shall be substituted, namely:-

"(d) where for any reason, a patent cannot be sealed within the period allowed by any of the foregoing provisions of this section, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions be extended to the extent applied for but not exceeding three months."

Amendment of Section 11, Act III of 1925.

7. In the proviso to section 11 of the said Act, for the words " the publication of the specification" the words "the advertisement of the acceptance of the application" shall be substituted.

Amendment of Section 13, Act III of 1925.

8. In section 13 of the said Act, for sub-section (2) the following sub section shall be substituted, namely:-

"(2) where a patent has been revoked by the High Court on the ground that it has been obtained in fraud of the true and first inventor or where the grant of a patent has been refused by the Controller under Section 9 on the ground stated in clause (a) of sub-section (1) of that section, the controller may, on the application of the true inventor or his legal representative or assign made in accordance with the provisions of this Act, grant to him a patent for the whole or any part of the invention, and the patent so granted shall bear the same date as the patent so revoked or, in the case of a patent the grant of which has been refused, the same date as would have been borne by the patent if it has been granted: Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted"

Amendment of Section 14, Act III of 1925.

9 10. In section 14 of the said Act (a) in sub-section (1) for the words "fourteen years" the words "Sixteen years" shall be substituted;

(b) after sub-section (1) the following sub-sections shall be inserted, namely:-

(1A) Any patent the original term of which had not expired on or before ~~the~~ first ~~the~~ day of _ _ - 193 , shall have effect as if the term mentioned therein was sixteen years instead of fourteen years, and any licence existing at that date which has been granted for the term of the patent shall be treated as having been granted for the term as so extended if the licensee so desires.

(1B) Where any party to a contract with the patentee or any other person entered into before the first day of - - - 193 , is ~~subject~~ subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction may determine in what manner and by which parties such loss or liablity shall be borne",-

(c) in sub-section (2), for the proviso the following proviso shall be substituted, namely:-

"Provided that where the patentee before, or within three months after, the expiration of the time for payment, applies to the Controller for an extension of time by any period not exceeding three months, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived, as the case may be, during, but not beyond, the period of extension applied for".

Amendment of Section 15, Act III of 1935.

10 11. In section 15 of the said Act,--

(a) in sub-section (1),

(i) the words "after advertising in the prescribed manner his intention to do so" shall be omitted, and

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(ii) after the words "prescribed fee", the words " and must be advertised by the patentee within the prescribed time and in the prescribed manner" shall be added;

(b) in sub-section (2), after the word "may" and before the words "give notice" the words "within such time as may be prescribed and on payment of the prescribed fee" shall be inserted.

(c) in sub-section (6),

(i) for the words "seven" and "fourteen" the words "five" and "ten" shall be substituted,

(ii) for the words "the Chief Court" wherever they occur the words "the High Court" shall be substituted.

Insertion of new section 15 A in Act III of 1925.

13. After section 15, the following section shall be inserted, namely:-

"15 A (1) where a patent for an invention has been applied for or granted, and the applicant or the patentee, as the case may be, applies for a further patent in respect of any improvement in or modification of the invention, he may in his application for the further patent request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired, and if he does so, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid.

(2) Save as otherwise expressly provided by this Act, a patent of addition shall remain in force as long as the patent for the original invention remains in force but no longer, and in respect of a patent of

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addition no fees shall be payable for renewal.

Provided that if the patent for the original invention is revoked, then the patent of addition shall, if the authority by which it is revoked so orders, become an independent patent, and the fees payable, and the dates when they become payable, shall be determined by its date, but its duration shall not exceed the unexpired term of the patent for the original invention.

(3) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independent patent."

Amendment of Section 18, Act III of 1925.

12 ~~13~~. In section 18 of the said Act, after the word "disclaimer" and before the words "in such manner", the words "correction or explanation" shall be inserted.

Amendment of Section 19, Act III of 1925.

13 ~~15~~. In section 19 of the said Act, for the words "before the disclaimer, correction or explanation", the words "before the date of the decision allowing the amendment" shall be substituted.

Amendment of Section 20, Act III of 1925.

14 ~~16~~. In sub-section (4) of section 20 of the said Act, the words beginning with "and, unless" and ending with "affecting a patent" shall be omitted.

Substitution of new section for section 21, Act III of 1925.

15 ~~17~~. For section 21 of the said Act, the following section shall be substituted, namely:-

"21 (1) Subject to the other provisions of this section, a patent shall have to all intents the like effect as against the

Government of Mysore as it has against a subject.

(2) The officers or authorities administering any department of the service of the Government of Mysore, may by themselves or by such of their agents, contractors or others, as may be authorized in writing by them, at any time after the application, and after giving notice to the applicant or patentee, make, use or exercise the invention for the service of the Government on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Government, between such officers or authorities and the applicant or patentee, or in default of agreement as may be settled in the manner hereinafter provided. And the terms of any agreement or licence concluded between the applicant or patentee and any person other than such officers or authorities, shall be inoperative as far as concerns the making, use or exercise of the invention for the service of the Government.

(3) Where an invention which is the subject of any patent has, before the date of the patent, been duly recorded in a document by, or tried by or on behalf of, the officers or authorities administering any department of the service of the Government (such invention not having been communicated directly or indirectly by the applicant or patentee) such officers or authorities, or such of their agents, contractors or others, as may be authorized

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in writing by them, may, after giving notice to the applicant or patentee, make, use or exercise the invention so recorded or tried for the service of the Government, free of any royalty or other payment to the applicant or patentee, notwithstanding the existence of the patent. If, in the opinion of such officers or authorities, the disclosure to the applicant or patentee as the case may be, of the document recording the invention or the evidence of the trial thereof, if required, would be detrimental to the public interest, it may be made confidentially to counsel on behalf of the applicant or patentee, or to any independent expert mutually agreed upon.

(4) In the event of any dispute as to the making use or exercise of an invention under this section, or the terms therefor, or as to the existence or scope of any record or trial as aforesaid, the matter shall be referred to the High Court for decision, who shall have power to refer the whole matter or any question or issue of fact arising thereon to be tried before a special or official referee or an arbitrator upon such terms as it may direct. The Court referee or arbitrator, as the case may be may, with the consent of the parties, take into consideration any benefit or compensation which the applicant or patentee, or any other person interested in the patent, may have received directly or indirectly, from the Government or from such officers or authorities in respect of such patent.

the Validity of the patent for the purposes only of the reference and for the determination of the issues between the applicant or patentee and such officers or authorities. The Court referee or arbitrator, further, in settling the terms as aforesaid, may be entitled to take into consideration

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Provided that, if the inventor or patentee is a Government servant and the subject matter of the invention is certified by the Government, to be connected with work done in the course of such service, any such dispute shall be settled by the Government after hearing the applicant or patentee and any other person having an interest in the invention or patent.

(5) The right to use an invention for the services of the Government under the provisions of this section, or any provisions for which this section is substituted shall include, and shall be deemed always to have included, the power to sell any articles made in pursuance of such right which are no longer required for the services of the Government.

(6) Nothing in this section shall affect the right of the Government or of any person deriving title directly or indirectly from the Government to sell or use any articles forfeited under any law for the time being in force relating to customs or ~~xx~~ excise.

Amendment of Section 22, Act. III of 1925.

16 18. In section 22 of the said Act, -

(a) in sub-section (1) for the words beginning with "reasonable requirements" and ending with the word "satisfied" the words "the demand for a patented article in Mysore ~~State~~ is not being met to an adequate extent and on reasonable terms" shall be substituted.

(b) in sub-section (4) ~~(1) for the~~

(i) for the

words beginning with "the reasonable requirements" and ending with "not been satisfied" the words "the demand for the patented article in Mysore ~~State~~ is not being met to an adequate extent and on reasonable terms" shall be substituted; and

(ii) for the words "the reasonable requirements of the public will not be satisfied" the words "the demand will not be adequately met" shall be substituted;

(~~iii~~) for the ~~words~~ "the Chief Court" wherever they occur" the High Court ~~shall~~ be substituted.

(c) in sub-section (5) ~~(1), for the~~ (i) for the words "the reasonable requirements of the public shall not be deemed to have been satisfied" the words "the demand for a patented article shall not be deemed to have been met to an adequate extent and on reasonable terms" shall be substituted.

(ii) in clause (a) the words beginning with "or the demand" and ending with "reasonably met" shall be omitted, and

(iii) in clause (b) the words "before or after the commencement of this Act" shall be omitted; and

(d) Sub-section (6) shall be omitted.

Amendment of Section 23, Act III of 1925.

17 ~~18~~. In Section 23 of the said Act,

(a) in sub-section (1), for the words "for the revocation of the patent" the words "for relief under this section" shall be substituted; and

(b) in ~~clause (c) of~~ sub-section (2) (1) after the words "an order" and before the word "revoking" the letter and bracket

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"(a)" shall be inserted; and

(ii) for the word "Mysore" the words "Mysore State" shall be substituted;

(iii) after clause (ii) the following shall be added, namely,—

"or (b) ordering the patentee to grant a licence to the applicant which may be a licence exclusive to him or otherwise as the Government may direct".

Insertion of new section 23A in Act III of 1925.

18 19. After section 23 of the said Act, the following section shall be inserted, namely:-

Operation of order under section 22 or section 23.

"23A An order of the High Court under section 23 or of the Government under section 22 or section 23 directing the grant of any licence shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a licence and executed by the patentee and all other necessary parties".

Amendment of Section 26, Act III of 1925.

19 20. In clause (g) of sub-section (1) of section 26 of the said Act, before the words "apart" wherever they occur the words "as a part" shall be inserted.

Amendment of section 34, Act III of 1925.

20 21. In sub-section (1) of section 34 of the said Act, for the words "either of" the word "all" shall be substituted.

Insertion of new section 34A in Act III of 1925.

21 22. After section 34 of the said Act, the following section shall be inserted, namely:-

Grant of relief in respect of particular claims.

"34 A Notwithstanding anything contained in section 19, if the Court in any action for infringement of a patent finds that any one or more of the claims in the specification in respect of which

the infringement is alleged are valid, it may, subject to its discretion as to costs and as to the date from which damages should be reckoned and to such terms as to amendment as it may deem desirable, grant relief in respect of any of such claims which are infringed without regard to the invalidity of any other claim in the specification. In exercising such discretion the Court may take into consideration the conduct of the parties in inserting such ~~involved~~ invalid claims in the specification or permitting them to remain there."

Amendment of Section 35 Act III of 1925.

22 ~~24~~. In section 35 of the said Act. -

(i) for the words "to be the patentee of ~~the~~ an invention" the words "to have an interest in a patent" shall be substituted

(ii) for the words "any legal rights of the person making such threats" the words "the patent" shall be substituted; and

(iii) In the proviso, for the words beginning with "if the person" and ending with the words "this patent" the words "if an action for infringement of the patent is commenced and prosecuted with due diligence" shall be substituted.

Amendment of Section 41, Act III of 1925.

23. ~~25~~ In section 41 of the said Act, -

(i) in ~~sub section~~ clause (a) for the word "and" the word "or" shall be substituted;

(ii) after ~~sub-section~~ clause (b) the following proviso shall be substituted, namely:-

"Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from previous registration".

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Insertion of new sections 48A and 48B in Act III of 1925.

24 ~~25~~. After Section 48 of the said Act the following sections shall be inserted, namely:-

cancellation of registration.

"48A (1) Any person interested may present a petition for the cancellation of registration of a design -

(a) at any time after the registration of design, to the High Court on any of the following grounds, namely:-

(i) that the design has been previously registered in Mysore ~~State~~; or

(ii) that it has been published in Mysore ~~State~~ prior to the date of registration; or

(iii) that the design is not a new or original design; or

(b) within one year from the date of the registration, to the controller on either of the grounds specified in sub clauses (i) and (ii) of clause (a)

(2) An appeal shall lie from any order of the Controller under this section to the High Court, and the Controller may at any time refer any such petition to the High Court, and the High Court shall decide any petition so referred.

Registration of design to bind the Government.

48B. The provisions of section 28 shall apply to registered designs as if those provisions were re-enacted herein and in terms made applicable to registered designs".

Amendment of section 59, Act III of 1925.

25 ~~26~~. Clause (b) of section 59 of the said Act shall be omitted.

Substitution of new section for Section 60, Act III of of 1925.

26 ~~27~~. For section 60 of the said Act the following section shall be subs-

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namely:-

"60 (1) where a person becomes entitled by assignment, transmission or ther operation of law to a patent or to the copyright in a registered design, he may make application to the Controller to register his title and the Controller shall, on receipt of such application and on proof of title to his satisfaction, register him as the proprietor of such patent or design, and shall cause an entry to be made in the prescribed manner in the register of the assignment, transmission or other instrument affecting the title.

(2) where any person becomes entitled as mortgagee, licensee or otherwise to any interest in a patent or registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be, with particulars of the instrument, if any, creating such interest.

(3) The person registered as the proprietor of a patent or design, shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licences as to, or otherwise deal with, the patent or design, and to give effectual receipts for any consideration for any such assignment,

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licence or dealing:

Provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other movable property.

(4) Except in the case of an application made under Section 61, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-sections (1) and (2) shall not be admitted in evidence in any Court in proof of the title to a patent or copyright in a design or to any interest therein, unless the Court, for reasons to be recorded in writing, otherwise directs."

Amendment of Section 61, Act III of 1925.

27/28 In section 61 of the said Act,

(a) in sub section (1), for the words "the ~~Chief~~ High Court" the words "The Controller" ~~shall be substituted.~~ and for the words "as it may think fit" the words "as he thinks fit" shall be substituted.

(b) In sub-section (2) for the word "Court" the word "Controller" shall be substituted.

(c) For sub-section (3) the following sub-section shall be substituted, namely:-

"(3) An appeal shall lie to the High Court from any order of the Controller under this section; and the Controller may refer any application under this section to the High Court for decision, and the High Court shall dispose of any application so referred and

(d) After sub-section (4) the following sub-section shall be inserted, namely:-

" (5) Nothing in this section shall be

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deemed to empower the Controller -

(a) to rectify the register of patents or to decide any question relating to a patent, otherwise than for the purpose of correcting a mistake of fact apparent from a reference either to the patent itself or to some order of a competent authority made under any other provision of this Act, or

(b) to make any such order cancelling the registration of a design, as is provided for in section 48 A.

Amendment of Section 66, Act III of 1925.

29 30. Section 66 of the said Act shall be numbered as sub-section (1) of that section and to that sub-section as so renumbered the following sub-section shall be added, namely:-

"(2) An appeal shall lie to the Government from an order of the Controller under this section".

Amendment of Section 67, Act III of 1925.

29 30. In Sub-sections (1) and (2) of section 67 of the said Act, for the word "two" the word "three" shall be substituted.

Insertion of new section 70A in Act III of 1925.

30 31. After section 70 of the said Act, the following section shall be inserted, namely:-

Security for costs.

"70 A. Where a person giving notice of any opposition under this Act or giving notice to the Court of appeal from any decision of the Controller under this Act, neither resides nor carries on business in Mysore, the Controller or the Court, as the case may be, may require such person to give security for the payment of all costs incurred and likely to be incurred in the proceedings or appeal, as the case may be, and in default of such security being

given, may disallow the opposition or dismiss the appeal".

Amendment of Section 75, Act III of 1925.

32. In section 75 of the said Act-

(a) in sub-section (1) after the word "the other State" and before the words "shall be entitled" the words " or his legal representative or assignee" shall be inserted;

(b) in proviso (a) to sub-section (1) for the word "four" the word "six" shall be substituted.

Substitution of a new schedule for the existing schedule to Act III of 1925.

33. The following schedule shall be substituted for the schedule to the said Act:-

The Schedule.

(See Section 54)

Fees.	Rs
On application for a patent.	10
Before sealing a patent.	30
Before the expiration of the 4th year from the date of the patent.	50
Before the expiration of the 5th year from the date of the patent.	50
Before the expiration of the 6th year from the date of the patent.	50
Before the expiration of the 7th Year from the date of the patent.	50
Before the expiration of the 8th year from the date of the patent.	100
Before the expiration of the 9th year from the date of the patent.	100
Before the expiration of the 10th year from the date of the patent.	100
Before the expiration of the 11th year from the date of the patent.	100
Before the expiration of the 12th year from the date of the patent.	150

	Rs.
Before the expiration of the 13th year from the date of the patent.	150
Before the expiration of the 14th year from the date of the patent.	150
Before the expiration of the 15th year from the date of the patent.	150
Provided that fees for two or more years may be paid in advance.	
On application to extend the term of a patent.	50
Before the expiration of each year of the extended term of a patent or of a new patent granted under Section 15.	150
On application for registration of a design.	3

Amendment of the Mysore Patents and Designs Act III of 1925.

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Statement of Objects and Reasons.

The Mysore Inventions and Designs Regulation III of 1925 was based on the Indian Patents and Designs Act II of 1911. The Indian Patents and Designs Act II of 1911 has been since amended in 1920, 1923, 1927 and 1930 to suit the changed conditions of the industrial development of the Country. It is ~~very~~ necessary to bring the Mysore Act into line with the British Indian Act. According to British Indian Act the term of the Patent has been extended to 16 years instead of 14 years as before. As a result the renewal fees have been enhanced and the schedule of fees has been suitably amended. It is desirable to adopt the same scale in Mysore here also. Section 78 A of the Indian Patents and Designs Act of 1911 as amended by Act VII of 1930 admits of reciprocal arrangements being made with Indian States and recognises the rights of the legal representatives and assignees of the British Indian applicants to claim priority in Mysore ~~and~~ similar ~~recognition~~ provision here is ~~also~~ necessary in the Mysore law.

The ~~draft~~ amendments proprosed are with a view to bring the Mysore Act into conformity with the British Indian Act.

*****

M Ramachandra

BV(3)30-7-1938.

Director of Industries and Commerce
& Ex-officio Controller of Patents
and Designs in Mysore
Bangalore

Amendment of the Mysore Patents and Designs Act III of 1925.

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Statement of Objects and Reasons.

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The Mysore Inventions and Designs ~~Regulation~~ Act III of 1925 was based on the Indian Patents and Designs Act II of 1911. The Indian Patents and Designs Act II of 1911 has been since amended in 1920, 1923, 1927 and 1930 to suit the changed conditions of the industrial development of the Country. It is necessary to bring the Mysore Act into line with the British Indian Act. According to British Indian Act the term of ~~the~~ a Patent which was 14 years prior to 1930 has been extended to 16 years ~~instead of 14 years as before~~. As a result the renewal fees have been enhanced and the schedule of fees has been suitably amended. It is desirable to adopt the same scale of fees in Mysore also. Section 78A of the Indian Patents and Designs Act of 1911 as amended by Act VII of 1930 admits of reciprocal arrangements being made with Indian States and recognises the rights of the legal representatives and assignees of the British Indian ap-

applicants to claim priority ~~in Mysore~~. Section 75 of the Mysore Act relating to ~~A similar provision is necessary in the~~ reciprocal arrangements has to be similarly ~~Mysore law.~~ amended.

The amendments proposed are with a view to bring the Mysore Act into conformity with the British Indian Act.

Secretary to Govt.,
Development Deptt.

Amendment of the Mysore Patents and Designs Act, III of 1925.

Statement of Objects and Reasons.

The Mysore Inventions and Designs Act, III of 1925 was based on the Indian Patents and Designs Act, II of 1911. The Indian Patents and Designs Act, II of 1911 has been since amended in 1920, 1923, 1927 and 1930 to suit the changed conditions of the industrial development of the country. It is necessary to bring the Mysore Act into line with the British Indian Act. According to British Indian Act, the term of a Paten which was was 14 years prior to 1930 has since been extended to 16 years. As a result, the renewal fees have been enhanced and the schedule of fees has been suitably amended. It is desirabl to adopt the same scale of fees in Mysore also. Section 78A of the -- Indian Patents and Designs Act of 1911, as amended by Act VII of 1930, admits of reciprocal arrangements being made with Indian States and recognises the rights of the legal representatives and assignees of the British Indian applicants to claim priority. Section

75 of the Mysore Act relating to reciprocal arrangements has to be similarly amended.

The amendments proposed are with a view to bring the Mysore Act into conformity with the British Indian Act.

A bill further to amend the law relating to the protection of Patents and Designs.

Whereas it is expedient further to amend the law relating to the protection of patents and designs, His Highness the Maharaja is pleased to enact as follows:-

Short title.

1. This Act may be called the Mysore Patents and Designs (amendment) Act, 193

Substitution of new section for Section 2 (4), Act III of 1925.

2. For Section 2 (4) of the said Act, the following section shall be substituted, namely:-

"Section 2(4) 'design' means only the features of shape, configuration, pattern or ornament, applied to any article, by any industrial process of means whether manual, mechanical or chemical separate or combined, which on the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device and does not include any trade mark as defined in Section 478 or property mark as defined in Section 479 of the Indian Penal Code".

Amendment of Section 2 of Act III of 1925.

3. In section 2 of the said Act,-

(a) in sub-section (10), the words "entitled to the benefit of a patent" shall be omitted and after the words "for the time being", the words "entered on the register of patents kept under this Act as the grantee proprietor of the patent" shall be added.

(b) In sub section (12) the word "or" shall be substituted for the word "and".

Amendment of Section 5, Act III of 1925.

4. In section 5 of the said Act,-

(a) In sub-section (1),-

(i) the words "or relate to more than one invention" shall be deleted,

Insertion of new clause (f) in Act III of 1925.

(ii) The following clause shall be inserted after clause (e), namely:-

"(f) The specification relates to more than one invention".

Insertion of new proviso at the end of Section 5 in Act III of 1925.

(iii) At the end of Section 5 (1), the following proviso shall be inserted:—

"Provided that, when a specification comprises more than one invention, the application shall, if the controller or the applicant, so requires, be restricted to one invention and the other inventions may be made the subject-matter of fresh applications; and any such fresh application shall be proceeded with ~~either~~ as a substantive application, but the controller may, in his discretion, direct that any such fresh application made before the acceptance of the original application, shall bear the date of the original application or such later date as he may fix, and the fresh application shall be deemed, for the purposes of this Act, to have been made on the date which it bears in accordance with such directio

Substitution of new proviso for proviso to sub-section 4 of Section 5, Act III of 1925.

(b) in sub-section (4),—

the following proviso shall be substituted for the existing proviso to sub section 4 of Section 5:—

"Provided that where, before or within three months after the expiration of the said period of twelve months a request is made to the controller for an extension of time by any period not exceeding three months, the application shall, on payment of the prescribed fee, be continued or revived, as the case may be, durin but not beyond, the period of extension so requested".

Omission of Section 8, Act III of 1925.

5. Section 8 shall be omitted.

Amendment of Section 9, Act III of 1925.

6. In section 9 of the said Act in sub-sections (1) and (2) for the words " three months" the words "four months" shall be sub tuted.

Amendment of Section 10, Act III of 1925.

7. In section 10 of the said Act:-

(a) after sub section (1) the following sub-section shall be inserted namely:-

"(1A) Notwithstanding anything contained in sub section (1) where:-

(a) an applicant has ~~offered~~ agreed in writing that on the grant to him of a patent he will assign it to another party or to a joint applicant and refuses to proceed with the application or (b) disputes arise between joint applicants as to proceeding with an application, the controller, if he is satisfied of the existence of such agreement ~~as~~ or, in any other case, that any joint applicant or applicants ought to be allowed to proceed alone, may direct that such other party or joint applicant or applicants may proceed with the application accordingly and may grant a patent to him or them as the case may be:

Provided that-

(1) the controller shall not ~~be~~ give any such direction until every party interested has had an opportunity of being heard by him, and

(ii) an appeal from any such direction shall ~~be~~ lie to the Government.

(b) in sub-section (2),-

(i) in clause (b) the words "or by a reference under Section 8" shall be deleted.

(ii) for clause (d), the following clause shall be substituted namely:-

"(d) where for any reason, a patent cannot be sealed within the period allowed by any of the foregoing provisions of this section, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions be extended to the extent applied for but not exceeding three months.

Amendment of Section 11, Act III of 1925.

8. In the proviso to section 11 of the said Act, for the words " the publication of the specification" the words "the advertisement of the acceptance of the application" shall be substituted.

Amendment of Section 13, Act III of 1925.

9. In section 13 of the said Act, for sub-section 2 the following sub section shall be substituted, namely:-

"(2) where a patent has been ~~recalled~~ revoked by the High Court on the ground that it has been obtained in fraud of the true and first inventor, or where the grant of a patent has been refused by the Controller under Section 9 on the ground stated in clause (a) of sub-section (1) of that section, the controller may, on the application of the true inventor or his legal representative or assign made in accordance with the provisions of this Act, grant to him a patent for the whole or any part of the invention, and the patent so granted shall bear the same date as the patent so revoked or in the case of a patent the grant of which has been refused the same date as would have been borne by the patent if it has been granted: Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted

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Amendment of Section 14, Act III of 1925.

10. In section 14 of the said Act, ~~(a)~~ —

(a) in sub-section (1) for the words "fourteen years" the words "Sixteen years" shall be substituted;

(b) after sub-section (1) the following sub-sections shall be inserted, namely:-

(1A) Any patent the original term of which had not expired on or before - - - - the day of - - - 193 , shall have effect as if the term mentioned therein was sixteen years instead of fourteen years, and any license existing at that date which has been granted for the term of the patent shall be treated as having been granted for the term as so extended if the licensee so desires.

(1B) Where any party to a contract with the patentee or any other person entered into before the - - - day of - - - - 193 , is ~~subject~~ subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction may determine in what manner and by which parties such loss or liablity shall be borne".

(C) in sub-section (2), for the existing proviso the following proviso shall be substituted, namely:-

"Provided that where the patentee, before, or within three months after, the expiration of the time for payment, applies to the Controller for an extension of time by any period not exceeding three months, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived, as the case may be, during, but not beyond, the period of extension applied for".

Amendment of Section 15, Act III of 1935.

11. In section 15 of the said Act,--

(a) in sub-section (1),

(i) the words "after advertising in the prescribed manner his intention to do so" shall be omitted,

(ii) after the words "prescribed fee" the words " and must be advertised by the patentee within the prescribed time and in the prescribed manner" shall be added;

(b) in sub-section (2), after the word "may" and before the words "give notice" the words "within such time as may be prescribed and on payment of the prescribed fee" shall be inserted.

(c) in sub-section (6) -

(i) for the words "seven" and "fourteen" the words "five" and "ten" shall be substituted,

(ii) for the words "the Chief Court" wherever they occur the words "the High Court" shall be substituted.

Insertion of new section 15 A in Act III of 1925.

13. After section 15, the following section shall be inserted, namely:-

"15 A (1) where a patent for an invention has been applied for or granted, and the applicant or the patentee, as the case may be, applies for a further patent in respect of any improvement in or modification of the invention, he may in his application for the further patent request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired, and if he does so, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid.

(2) Save as otherwise expressly provided by this Act, a patent of addition shall remain in force as long as the patent for the original invention remains in force, but no longer, and in respect of a patent of

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addition ~~s~~ fees shall be payable for renewal

Provided that if the patent for the original invention is revoked, then the patent of addition shall, if the authority by which it is revoked so orders, become an independent patent, and the fees payable, and the dates when they become payable, shall be determined by its date, but its duration shall not exceed the unexpired term of the patent for the original invention.

(3) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independent patent.

Amendment of Section 18, Act III of 1925.

13. In section 18 of the said Act, after the word "disclaimer" and before the words "in such manner", the words "correction or explanation" shall be inserted.

Amendment of Section 19, Act III of 1925.

14. In section 19 of the said Act, for the words "before the disclaimer, correction or explanation", the words "before the date of the decision allowing the amendment" shall be substituted.

Amendment of Section 20, Act III of 1925.

15. In sub-section (4) of section 20 of the said Act, the words beginning with "and, unless" and ending with "affecting a patent" shall be omitted.

Substitution of new section for section 21, Act III of 1925.

16. For section 21 of the said Act, the following section shall be substituted namely:-

"21 (1) Subject to the other provisions of this section, a patent shall have to all intents the like effect as against the

Government of Mysore as it has against a subject.

(2) The officers or authorities administering any department of the service of the Government of Mysore, may by themselves or by such of their agents, contractors or others, as may be authorised in writing by them, at any time after the application, and after giving notice to the applicant or patentee, make, use or exercise the invention for the service of the Government on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Government, between such officers or authorities and the applicant or patentee, or in default of agreement as may be settled in the manner hereinafter provided. And the terms of any agreement or license concluded between the applicant or patentee and any person other than such officers or authorities, shall be inoperative as far as concerns the making, use or exercise of the invention for the service of the Government.

(3) Where an invention which is the subject of any patent has, before the date of the patent, been duly recorded in a document by, or tried by or on behalf of, the officers or authorities administering any department of the service of the Government (such invention not having been communicated directly or indirectly by the applicant or patentee) such officers or authorities, or such of their agents, contractors or others, as may be authorised

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in writing by them, may, after giving notice to the applicant or patentee, make, use or exercise the invention so recorded or tried for the service of the Government, free of any royalty or other payment to the applicant or patentee, notwithstanding the existence of the patent. If, in the opinion of such officers or authorities, the disclosure to the applicant or patentee as the case may be, of the document recording the invention or the evidence of the trial thereof, if required, would be detrimental to the public interest, it may be made confidentially to counsel on behalf of the applicant or patentee, or to any independent expert mutually agreed upon.

(4) In the event of any dispute as to the making use or exercise of an invention under this section, or the terms therefor, or as to the existence or scope of any record or trial as aforesaid, the matter shall be referred to the High Court for decision, who shall have power to refer the whole matter or any question or issue of fact arising thereon to be tried before a special or official referee or an arbitrator upon such terms as it may direct. The court referee or arbitrator, as the case may be, may with the consent of the parties, take into consideration any benefit or compensation which the applicant or patentee, or other person interested in the patent, may have received directly or indirectly, from the Government or from such officers or authorities in respect of such patent.

the validity of the patent for the purposes only of the reference and for the determination of the issues between the applicant or patentee and such officers or authorities. The court, referee or arbitrator, in settling the terms as aforesaid, shall be entitled to take into consideration

Provided that, if the inventor or patentee is a Government servant and the subject-matter of the invention is certified by the Government, to be connected with work done in the course of such service, any such dispute shall be settled by the Government after hearing the applicant or patentee and any other person having an interest in the invention or patent.

(5) The right to use an invention for the services of the Government under the provisions of this section, or any provisions for which this section is substituted, shall include, and shall be deemed always to have included, the power to sell any articles made in pursuance of such right which are no longer required for the services of the Government.

(6) Nothing in this section shall affect the right of the Government or of any person deriving title directly or indirectly from the Government to sell or use any articles forfeited under any law for the time being in force relating to customs or ~~and~~ excise.

Amendment of Section 22, Act. III of 1925.

17. In section 22 of the said Act, -

(a) in sub-section (1) for the words beginning with "reasonable requirements" and ending with the word "satisfied" the words "the demand for a patented article in Mysore State is not being met to an adequate extent and on reasonable terms" shall be substituted;

(b) in sub-section (4), ~~(i) for the~~

(i) for the

words beginning with "the reasonable requirements" and ending with "not been satisfied" the words "the demand for the patented article in Mysore State is not being met to an adequate extent and on reasonable terms" shall be substituted;

(ii) for the words "the reasonable requirements of the public will not be satisfied" the words "the demand will not be adequately met" shall be substituted.

(iii) for the words "the Chief Court", wherever they occur" the High Court" shall be substituted.

(c) in sub-section (5), ~~(i), for the~~ (i) for the words "the reasonable requirements of the public shall not be deemed to have been satisfied" the words "the demand for a patented article shall not be deemed to have been met to an adequate extent and on reasonable terms" shall be substituted.

(ii) in clause (a) the words beginning with "or the demand" and ending with "reasonably met" shall be omitted.

(iii) in clause (b) the words "before or after the commencement of this Act" shall be omitted.

(d) Sub-section (6) shall be omitted.

Amendment of Section 23, Act III of 1925.

18. In Section 23 of the said Act,

(a) in sub-section (1), for the words "for the revocation of the patent" the words "for relief under this section" shall be substituted.

(b) in clause (c) of sub-section (2) (i) after the words "an order" and before the word "revoking" the letter and bracket

(a) shall be inserted;

(ii) for the word "Mysore" the words "Mysore State" shall be substituted;

(iii) at the end of clause (c) the following shall be inserted, namely,-

"or (b) ordering the patentee to grant a license to the applicant which may be a license exclusive to him or otherwise as the Government may direct".

Insertion of new section 23A in Act III of 1925.

19. After section 23 of the said Act the following section shall be inserted, namely:-

"23A An order of the High Court under Section 23 or of the Government under Section 22 or Section 23 directing the grant of any license shall, without prejudice to any other method of enforcement, operate, as if it were embodied in a deed granting a license and executed by the patentee and all other necessary parties".

Amendment of Section 26, Act III of 1925.

20. In clause (g) of sub-section (1) of section 26 of the said Act, before the words "a part" wherever they occur the word "the whole or" shall be substituted.

Amendment of section 34, Act III of 1925.

21. In sub-section (1) of section 34 of the said Act, for the words "either of" the word "all" shall be substituted.

Insertion of new section 34A in Act III of 1925.

22. After section 34 of the said Act, the following section shall be inserted, namely:-

"34 A Notwithstanding anything contained in section 19, if the court in any action for infringement of a patent finds that any one or more of the claims in the specification in respect of which

the infringement is alleged are valid, it may, subject to its discretion as to costs and as to the date from which damages should be reckoned and to such terms as to amendment as it may deem desirable, grant relief in respect of any of such claims which are infringed without regard to the invalidity of any other claim in the specification. In exercising such discretion the court may take into consideration the conduct of the parties in inserting such ~~involved~~ invalid claims in the specification or permitting them to remain there.

Amendment of Section 35 Act III of 1925.

23. In section 35 of the said Act. -

(i) for the words "to be the patentee of the invention" the words "to have an interest in a patent" shall be substituted;

(ii) for the words "any legal rights of the person making such threats" the words "the patent" shall be substituted;

(iii) In the proviso, for the words beginning with "if the person" and ending with the words "this patent" the words "if an action for infringement of the patent is commenced and prosecuted with due diligence" shall be substituted.

Amendment of Section 41, Act III of 1925.

24. In section 41 of the said Act, -

(i) in sub section (a) for the word "and" the word "or" shall be substituted;

(ii) after sub-section (b) the following proviso shall be substituted, namely:-

"Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from previous registration".

Insertion of new sections 48A and 48B in Act III of 1925.

25. After Section 48 of the said Act the following sections shall be inserted, namely:-

"48A (1) Any person interested may present a petition for the cancellation of the registration of a design -

(a) at any time after the registration of the design, to the high Court on any of the following grounds, namely:-

(i) that the design has been previously registered in Mysore State; or

(ii) that it has been published in Mysore State prior to the date of registration; or

(iii) that the design is not a new or original design; or

(b) within one year from the date of the registration, to the controller on either of the grounds specified in sub clauses (i) and (ii) of clause (a).

(2) An appeal shall lie from amy orde of the Controller under this section to the high Court, and the Controller may at any time refer any such petition to the High Court, and the high Court shall decide any petition so referred.

48B. The provisions of section 21 shall apply to registered designs as if those provisions were re-enacted herein and in terms made applicable to registered designs".

Amendment of section 59, Act III of 1925.

26. Clause (b) of section 59x of the said Act shall be omitted.

Substitution of new section for Section 60, Act III of of 1925.

27. For section 60 of the said Act the following section shall be substitute

namely:-

"60 (1) where a person becomes entitled by assignment, transmission or ther operation of law to a patent or to the copyright in a registered design, he may make application to the Controller to register his title and the Controller shall, on receipt of such application and on proof of title to his satisfaction, register him as the proprietor of such patent or design, and shall cause an entry to be made in the prescribed manner in the register of the assignment, transmission or instrument affecting the title.

(2) where any person becomes entitled as mortgagee, licensee or otherwise to any interest in a patent or registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be, with particulars of the instrument, if any, creating such interest.

(3) The person registered as the proprietor of a patent or design, shall, subject to the provisions of this Act and to any rights appearing from the Register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the patent or design and to give effectual receipts for any consideration for any such assignment,

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license or dealing.

Provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other moveable property.

(4) Except in the case of an applicat made under Section 61, a document or instru ment in respect of which no entry has been made in the register in accordance with the provisions of sub-sections (1) and (2) shal not be admitted in evidence in any court in proof of the title to a patent or copyright in a design or to any interest therein, unless the court, for reasons to be recorded in writing, otherwise directs.

Amendment of Section 61, Act III of 1925.

28. In section 61 of the said Act,

(a) in sub section (1) for the words "the Chief Court" the words "The Controller" shall be substituted. For the words "as it may think fit" the words "as he thinks fit" shall be substituted.

(b) In Sub-section (2) for the wor "Court" the word "Controller" shall be substituted.

(c) For Sub-section (3) the following sub-section shall be substituted, namely:-

"(3) An appeal shall lie to the High Court from any order of the Controller und this section; and the Controller may refer any application under this section to the High Court for decision, and the High Court shall dispose of any application so referre

(d) After sub-section (4) the follow- ing sub-section shall be inserted, namely:-

" (5) Nothing in this section shall be

deemed to empower the Controller -

(a) to rectify the register of patents or to decide any question relating to a patent, otherwise than for the purpose of correcting a mistake of fact apparent from a reference either to the patent itself to some order of a competent authority made under any other provision of this Act, or

(b) to make any such order cancelling the registration of a design, as is provided for in Section 48 A."

Amendment of Section 66, Act III of 1925.

29. Section 66 of the said Act shall be numbered as clause (1) of section 66 and the following clause shall be added as clause (2):-

"(2) An appeal shall lie to the Government from an order of the Controller under this section".

Amendment of Section 67, Act III of 1925.

30. In Sub-sections (1) and (2) of section 67 of the said Act, for the word "two" whenever occur the word "three" shall be substituted.

Insertion of new section 70A in Act III of 1925.

31. After section 70 of the said Act, the following section shall be inserted, namely:-

"70 A. Where a person giving notice of any opposition under this Act or giving notice to the Court of appeal from any decision of the Controller under this Act, neither resides nor carries on business in Mysore State, the Controller or the Court, as the case may be, may require such person to give security for the payment of all costs incurred and likely to be incurred in the proceedings or appeal, as the case may be, and in default of such security being

given, may disallow the opposition or dismiss the appeal".

Amendment of Section 75, Act III of 1925.

32. In section 75 of the said Act -

(a) in sub-section (1) after the words "the other State" and before the words "shall be entitled" the words " or his legal representative or assignee" shall be inserted;

(b) in proviso (a) to sub-section (1) for the word "four" the word "six" shall be substituted.

Substitution of a new schedule for the existing schedule to Act III of 1925.

33. The following schedule shall be substituted for the schedule to the said Act:-

The Schedule.

(See Section 54)

Fees.	Rs
On application for a patent.	10
Before sealing a patent.	30
Before the expiration of the 4th year from the date of the patent.	50
Before the expiration of the 5th year from the date of the patent.	50
Before the expiration of the 6th year from the date of the patent.	50
Before the expiration of the 7th Year from the date of the patent.	50
Before the expiration of the 8th year from the date of the patent.	100
Before the expiration of the 9th year from the date of the patent.	100
Before the expiration of the 10th year from the date of the patent.	100
Before the expiration of the 11th year from the date of the patent.	100
Before the expiration of the 12th year from the date of the patent.	150

Before the expiration of the 13th year from the date of the patent.	150
Before the expiration of the 14th year from the date of the patent.	150
Before the expiration of the 15th year from the date of the patent.	150
Provided that fees for two or more years may be paid in advance.	
On application to extend the term of a patent.	50
Before the expiration of each year of the extended term of a patent or of a new patent granted under Section 15.	150
On application for registration of a design.	3

Bangalore City,

13th May 1939.

To

The Secretary,
R. A. & L.C.,
Bangalore.

Dear Sir,

With reference to your letter No.P.5963-7 dated 12th instant enclosing a copy of the report of the Select Committee on the Mysore Patents and Designs (amendment) Bill, I herewith return the same duly approved and signed.

Yours sincerely,

PATENTS AND DESIGNS (amendment) BILL.

REPORT OF THE SELECT COMMITTEE.

We the members of the Select Committee to which the Bill to amend the Patents and Designs Act, 1925 was referred have considered the several clauses of the Bill and have now the honour to submit the following report:-

We have considered the British Indian Act XII of 1939 amending the Law relating to the Protection of Inventions and Designs and we have recommended the addition ~~to~~ in our Bill of similar provisions wherever ~~we have thought it~~ necessary ~~to do so~~.

We recommend that the preamble may be recast as follows:-

"Whereas it is expedient further to amend the Law relating to the protection of patents and designs, It is hereby enacted as follows:-"

Clause 3. - In clause 3 sub-clause (a) after (i) we recommend the addition of the following as (ia):-

"(ia) in clause (c) after the words "the title" the words "or the specification" shall be inserted;

and in (ii) for clause (f) we recommend that the following clauses be inserted, namely -

(f) the specification relates to more than one invention or

(g) in the case of an application claiming priority under section 75 the specification describes and claims an invention substantially larger than or substantially different from the invention disclosed in the specification filed with the application made outside Mysore by virtue of which priority is claimed, or

(h) in the case of an application for a patent of addition under section 15A, the invention described and claimed in the specification is not an improvement or modification of that described and claimed in the original specification."

We also recommend that the following clauses may be added as (b),(c) and (d), the existing sub-clause (b) being re-numbered as (e)

(b) after sub-section (1) the following sub-section shall be inserted, namely -
"(1A) If the Controller considers, at any time before the acceptance of an application, that the invention claimed therein has been wholly or in part claimed in a specification published on or after the date which a patent applied for would bear if granted, and dated to an application for a patent which if granted of prior date to the patent applied for, he may that the applicant's specification be amended

insertion of a reference to such other specification, by way of notice to the public";

(c) in sub section (2) after the word "amendment" the words " or the insertion of a reference" shall be inserted:

(d) in sub-section (4) for the words "become void" the words "be deemed to have been refused" shall be substituted.

We recommend that the proviso to sub-section (4) sought to be added by the renumbered sub-clause (e) may be recast as follows

Substituted

"provided that where, before or within three months after the expiration of the said period of twelve months a request is made to the Controller for an extension of time, the application shall on payment of the prescribed fee be continued for any period so requested not exceeding in all three months from the expiration of the said period of twelve months"

Clause 6.- We recommend that sub-clause (b)(i) of this clause may be recast as follows .-

(i) in clause (b) of the proviso, the words "or, by a reference under section 8" shall be omitted, and after the word "patent" where it occurs for the first time, the words " or by any proceedings taken for obtaining a direction of the Controller under the provisions of sub-section (1A)" shall be substituted.

Clause 9.- We recommend that sub-section (1-B) sought to be added to section 14 by sub-clause (b) may be recast as follows

" (1B) where any party to a contract with the patentee or another person entered into before the first day of - - - 193- is subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction may, on application made in this behalf, determine in what manner and by which parties such loss or liability shall be borne."

We also recommend that the proviso to sub-section (2) proposed to be substituted by sub-clause (c) may be recast as follows:-

Provided that where the patentee, before or within three months after the expiration of the time for payment, appli to the Controller for an extension of time, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived as the case may be, for any period so applied for not exceeding in all three month from the expiration of the time for payment."

Clause 10. - We recommend that sub-clause (c) may be recast as follows:-

"(c) for sub-sections 5 and 6 the following sub-sections shall be substituted, namely:-

(5) The Government or the High Court to which a petition is referred shall in considering the petition have regard to the nature and merits of the invention in relation to the public, to the profits made on the patent and to all the circumstances of

the case.
(6) If it appears to the Government or to the High Court when the petition is referred to it, that the patent has not been sufficiently remunerative, the Government or the High Court, as the case may be, may by order extend the term of the patent for a further term not exceeding five or in exceptional cases ten years or may order the grant of a new patent for such term not exceeding ten years as may be specified in the order and subject to any restriction, conditions and provisions which the Government or the High Court, as the case may be, may think fit."

Clause 15.- We recommend that in sub-section (6) of the proposed section 21 the last three words " relating to excise may be omitted.

Clause 19.- We recommend that clause 19 may be recast as follows:-

For sub-section (1) of section 26 of the said Act, the following sub-section shall be substituted, namely:-
"(1)Revocation of a patent in whole or in part may be obtained on petition to or on a counter claim in a suit for infringement before the High Court on all or any of the following grounds, namely:-
(a) that the invention has been the subject of a valid prior grant of a patent in Mysore;
(b) that the true and first inventor or his legal representative or asigned was not the applicant or one of the applicants for the patent:
(c) that the patent was obtained in fraud of the rights of the person applying for the revocation or of any person under or through whom he claims;
(d) that the invention was not, at the date of the patent a manner of new manufacture or improvement;
(e) that the invention does not involve any inventive step having any regard to what was known or used prior to the date of the patent;
(f) that the invention is of no utility;
(g) that the specification does not sufficiently and fairly described and ascertain the nature of the invention and the manner in which the invention is to be performed;
(h) that the specification does not sufficiently and clearly ascertain the scope of the invention claimed;
(i) that the patent was obtained on a false suggestion or representation;
(j) that the primary or intended use or exercice of the invention is contrary to law;
(k) that the patentee has contrevened, or has not complied with, the conditions contained in the patent
(l) that the specification does not disclose the best method of performance of the invention known to the applicant for the patent at the time when the specification was left at the patent office;
(m) that prior to the date of the patent, the patentee or other persons (not being authorities administering any department of the service of His Highness the Maharaja, or the agents or contractors of, or any other persons authorised in that behalf by the Government) secretly worked the invention on a commercial scale (and not merely by way of reasonable trial or experiment) in Mysore, and thereby made direct or indirect profits in excess of such amount as the Court may in consideration of all the circum

stances of the case deem reasonable:
Provided that this sub-section shall have effect in relation to the ground of revocation specified -
(i) in clause (b), subject to the provisions of section 75, or
(ii) in clause (d), subject to the provisions of sub-section (1) of section 13, sub-section (2) of section 21, section 37 and section 39."

After Clause 19 we recommend the addition of another clause as follows:-

19A. (a) To sub-section 1 of section 29 of the said Act, the following proviso shall be added, namely -
"Provided that where a counter claim for revocation of the patent is made by the defendant, the suit along with the counter claim shall be transferred to the High Court for decision."
(b) In sub-section (2) of section 29 of the said Act, for the words "this Act" the word and figure "section 26" shall be substituted.

After clause 22 we recommend the addition of two other clauses as follows:-

22A- For Section 37 of the said Act the following section shall be substituted, namely:-
"37. The publication or knowledge of an invention in Mysore before the date of the application for a patent thereon shall not invalidate the patent granted thereon if the knowledge has been obtained surreptitiously or in fraud of the true and first inventor or his legal representative or assignee or has been communicated to the public in fraud of such inventor or his legal representative or assignee or in breach of confidence: Provided that such inventor or his legal representative or assign has not acquiesced in the public use of his invention, and that he applies for a patent within six months after the commencement of such use."

22B -for section 39 of the said Act the following section shall be substituted, namely:-
"39. The exhibition of an invention at an industrial or other exhibition to which the provisions of this section have been extended by the Government by Notification in the official Gazette or the publication of any description of the invention during the period of the holding of the exhibition or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention or the publication of any description thereof, during or after the period of the holding of the exhibition, by any person elsewhere without the privity or consent of the inventor or the reading of a paper by an inventor before a learned society, or the publication of that paper in the society's transactions shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention, or the validity of any patent granted on the application;
Provided that -
(a) the exhibitor exhibiting the invention or the inventor reading the paper or authorising the publication thereof, as the case may be, gives to the Controller previous notice in the prescribed form; and
(b) the application for a patent is made before or within six months from the date of first exhibiting the in-

invention or of the reading of the paper, as the case may be, or when it has not been so read, of the said publication."

After clause 23 we recommend the addition of another clause as follows -

23A.- In sub-sections (2) and (3) of section 44 of the said Act, the words "within the prescribed time" shall be omitted.

We recommend the addition of three other clauses after clause 24 as follows-

24A- For section 49 of the said Act, the following section shall be substituted, namely:-

"49. The exhibition of a design, or of any article to which a design is applied, at an industrial or other exhibition to which the provisions of this section have been extended by the Government by notification in the official gazette, or the publication of a description of the design, during the period of the holding of the exhibition, or the exhibition of the design or the article or the publication of a description of the design by any person elsewhere during or after the period of the holding of the exhibition, -- without the privity of consent of the proprietor, shall not prevent the design from being registered or invalidate the registration thereof:

Provided that-

(a) the exhibitor exhibiting the design or article, or publishing a description of the design, gives to the Controller previous notice in the prescribed form; and

(b) the application for registration is made within six months from the date of first exhibiting the design or article or publishing a description of the design."

24B - In sub-section (1) of section 50 of the said act, -

(a) after clause (a) the following clause shall be inserted namely:-

"(aa) to import for the purposes of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof; or";

(b) in sub clause (b), after the words "applied to any article" the words "in any class of goods in which the design is registered" shall be inserted.

24C. - After section 56 of the said Act the following section shall be inserted, namely :-

"56A. A person making a request to the Controller in the prescribed manner as respects any patent specified in the request or as respects any application for a patent so specified, for information to be furnished to him by the Controller of any such matters as may be prescribed affecting that patent or application, shall be entitled, subject to the payment of the prescribed fee to have information supplied to him accordingly."

After clause 27 we recommend the addition of another clause as follows:-

27A. - In section 62 of the said Act, the word "and", in the first three places where it occurs, shall be

omitted, and for the words "compelling the production of documents and awarding costs" the words "compelling the discovery and production of documents, issuing commissions for the examining of witnesses and awarding costs and such award shall be executable in any court having jurisdiction as if it were a decree of that court" shall be substituted.

After clause 29 we recommend the addition of two other clauses as follows:-

29A. After the heading "EVIDENCE,ETC." and before section 68 of the said Act, the following section shall be inserted, namely :-

"67A. Subject to any rules made under section 73 in any proceeding under this Act before the Controller, the evidence shall be given by affidavit, in the absence of directions by the Controller to the contrary; but in any case in which the Controller thinks it right so to do he may take evidence VIVA VOCE in lieu of or in addition to evidence by affidavit or may allow any party to be cross examined on the contents of his affidavit."

29B. After section 68 of the said Act, the following section shall be inserted, namely:-

"68A. Printed or written copies or extracts, purporting to be certified by the Controller and sealed with the seal of the Patent Office, of or from patents, specifications and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all courts in Mysore, and in all proceedings without further proof or production of the originals:

Provided that a court may if it has reason to doubt the accuracy or authenticity of the copies tendered in evidence, require the production of the originals or such further proofs as it considers necessary."

Clause 31, We recommend that sub-clause (a) may be recast as follows:-

(a) in sub-section (1) for the words "shall be entitled to a patent for his invention or to registration of his design under this Act, in priority to other applicants; and the patent or registration shall have" the words "or his legal representative or assignee shall, either alone or jointly with any other person, be entitled to claim that the patent that may be granted to him under this Act, for the said invention or the registration of the said design under this Act, shall be in priority to other applicants and shall have" shall be substituted.

In the schedule proposed to be substituted for the present one we recommend that the words "Before the expiration of ", where they occur in the penultimate entry, the words " In respect of" shall be substituted.

As the Bill has been materially altered we recommend its republication.

Mee

11/51 33

11. Except as otherwise expressly provided by this Act, a patent shall be dated and sealed as of the date of the application; Provided that no proceeding shall be taken in respect of an infringement committed before the publication of the specification.	Except as otherwise expressly provided by this Act, a patent shall be dated and sealed as of the date of the application; Provided that no proceeding shall be taken in respect of an infringement committed before the advertisement of the acceptance of the application.
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15.(1) A patentee may, after advertising in the presribed manner his intention to do so, present a petition to the Government praying that his patent may be extended for a further term; but such petition must be left at the patent office at least six months before the time limited for the expiration of the patent and must be accompanied by the prescribed fee.	A patentee may present a petition to the Government praying that his patent may be extended for a further term; but such petition must be left at the patent office at least six months before the time limited for the expiration of the patent and must be accompanied by the prescribed fee and must be advertised be the patentee within the prescribed time and in the prescribed manner.
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15 (2) Any person may give notice to the controller of objection to the extension.	Any person may within such time as may be prescribed and on payment of the prescribed fee give notice to the controller of objection to the extension.
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18.In any suit for infringement of a patent or proceeding before a court for the revocation of a patent the court may by order allow the patentee to amend his specification by way of disclaimer in such manner and subject to such terms as to costs advertisement or otherwise as the court may think fit:	In any suit for infringement of a patent or proceeding before a court for the revocation of a patent, the court may by order allow the patentee to amend his specification by way of disclaimer, correction or explanantion in such manner and subject to such terms as to costs advertisement or otherwise as the court may think fit.
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22.(1) Any person interested may present a petition to the Government which shall be left at the Patent Office together with the prescribed fee alleging that the reasonable requirements of the public with respect to a patented invention have not been satisfied, and praying for the grant of a compulsory licence or in the	Any person interested may present a petition to the Government which shall be left at the Patent Office, together with the prescribed fee, alleging that the demand for a patented article in Mysore is not being met to an adequate extent and on reasonable terms, and praying for the grant of a compulsory licence, or in the alternative, for the revocation of the patent.

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22 (4) If the Government is of opinion, or where reference has been made under sub-section (2) to the High Court that court finds, that the reasonable requirements of the public with reference to the patented invention have not been satisfied, the patentee may be ordered to grant licences on such terms as the Government or the ~~High~~ High Court as the case may be may think just or if the Government or the High Court is of opinion that the reasonable requirements of the public will not be satisfied by the grant of the licences, the patent may be revoked by order of the Government or the High Court.	If the Government is of opinion, or where reference has been made under sub-section (2) to the High Court that court finds that the demand for the patented article in Mysore is not being met to an adequate extent and on reasonable terms, the patentee may be ordered to grant licences on such terms as the Government or the High Court, as the case may be, may think just, or if the Government or the High Court is of opinion that the demand will not be adequately met by the grant of the licences, the patent may be revoked by order of the Government or the High Court.
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22 (5) For the purposes of this section the reasonable requirements of the public shall not be deemed to have been satisfied -	For the purposes of this section the demand will not be adequately met -
23 (1) At any time not less than four years after the date of a patent granted under this Act, any person may apply to the Government for the revocation of the patent on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside the territories of Mysore.	At any time not less than four years after the date of a patent granted under this Act, any person may apply to the Government for relief under this Section on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside the territories of Mysore.
26(1)(g) That a part of the invention or the manner in which a part is to be made and used as described in the original or any amended specification, is not thereby sufficiently described and that this insufficiency was fraudulent or is injurious to the public.	That the whole or a part of the invention or the manner in which the whole or a part is to be made and used as described in the original or any amended specification, is not thereby sufficiently described and that this insufficiency was fraudulent or is injurious to the public.

Where any person claiming to be the patentee of an invention, by circular advertisements or otherwise threatens any other person with any legal proceedings or liability in respect of any alleged infringement of the patent, any person aggrived thereby may bring a suit against him in a district court having jurisdiction to try the suit, and may obtain an injection against the continuance of such threats, and may recover such damage (if any) as he has sustained thereby, if the alleged infringement to which the threats related was not in fact an infringement of any legal rights of the person making such threats:-
provided that this section shall not apply if the person making such threats with due dilligence commences and prosecutes a suit for infringement of the patent.

Where any person claiming to have an interest in a patent by circulars, advertisements or otherwise, threatens any other person with any legal proceedings or liability in respect of any alleged infringement of the patent, any person aggrieved thereby may bring a suit against him in a district court having jurisdiction to try the suit, and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as he has sutained thereby, if the alleges infringment to which the threats related was not in fact an infringement of the patent :
provided that this section shall not apply if an action for infringement of the patent is commenced and prosecuted with due diligence.

DRAFT AMENDMENTS TO THE MYSORE PATENTS AND DESIGNS

THE BRITISH IN

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). No. of Section.	Existing Section.	Amendments sugg
2 (4)	'Design' means any design applicable to any article whether the design is applicable to for the pattern, or for the shape, or (configuration) or for the ornament thereof, or for any two or more of such purposes, and by whatever means it is applicable, whether by printing, painting, embroidering, weaving, sewing, modelling, casting, embossing, engraving, staining, or any other means, whatever manual, mechanical or chemical, separate or combined, but does not include any trade or property mark as defined in Sections 478 & 479 of the Indian Penal Code.	The following su tuted for the e 2(4) 'Design'me configuration any article, by whether manual which in the f judged only by (solely) trade mark as mark as define Penal Code.
2(10)	'Patentee' means the person for the time being entitled to ~~the~~ benefit of a Patent.	The words 'Enti shall be omit time being, t of Patents ke or proprietor
2(12)	'Proprietor' of a new and original design:	Substitute the
5 (1)b.	5.(1)b. The Controller shall examine every application, and if he considers that -	
	(b) The application, specification and drawings have not been prepared in the prescribed manner or relate to more than one invention, or	The words 'or shall be del
	New Clause	Add the follo (f) The spec invention.
	New proviso	At the end o shall be ins Provided tha than one inv Controller o restricted t tions may be applications shall be pro application, direct that the acceptan bear the dat later date a tion shall to have been accordance w
6. 5 (4)	Unless an application is accepted within 12 months from the date of the application, the application shall (Except where an appeal has been lodged) become void:	The following existing pro
	Provided that where an application is made for an extension of tiem for, the acceptance of an - -	Provided tha after the ex twelve month for an exten ing three mo

sted.	Section as amended.
section 2(4) shall be substi- isting sub section 2(4):- s only the features of shape, pattern or ornament, applied to any industrial process or means echanical or chemical or combined ished article appeal to and are he eye but does not include any fined in Section 478 or property in Section 479 of the Indian	'Design' means only the features of shape, configuration, pattern or ornament applied to any article, by any industrial process or means whether manual, mechanical or chemical or combined, which on the finished article appeal to and are judged by the eye but does not include any trade mark as defined in Section 478 or property mark as defined in Section 479 of the Indian Penal Code.
rd to the benefit of a patent' and after the words for the words "entered on the register under this act as the grantee the Patent" shall be added.	'Patentee' means the person for the time being entered on the Register of Patents kept under this act as the grantee or proprietor of the patent.
ord 'Or' for the word "and".	'Proprietor' of a new or original design
te to more than one invention'	(b) The application, specification and drawings have not been prepared in the prescribed manner or
as clause (f) after clause (e). ation relates to more than one	(f) The specification relates to more than one invention.
section 5 (1) the following proviso ted hen a specification comprises more ion, the application shall, if the he applicant so requires, be one invention and the other inven- ade the subject-matter of fresh and any such fresh application ded with either as a substantive ht Controller may, in his discretion, such fresh application made before of the original application shall of the original application or such he may fix, and the fresh applica- deemed, for the purposes of this act, ade on the date which it bears in h such direction	At the end of Section 5 (1) the following proviso shall be inserted. Provided that, when a specification comprises more than one invention, the applica-tion shall, if the Controller or the applicant so requires, be restricted to one invention and the other inventions may be made the subject matter of fresh applications; and any such fresh application shall be proceeded with either as a substantive application, but the Controller may, in his discretion, direct that any such fresh application made before the acceptance of the original application shall bear the date of the original application shall be deemed, for the purposes of this act, to have been made on the date which it bears in accordance with such direction.
roviso shall be substituted for the so to Sub Section 4 of Sec.5. three where, before or within ~~six~~ months ration of the said period of ~~12~~ ~~mx~~ a request is made to the Controller on of time by any period not exceed- ths, the application shall on	5-(4) Unless an application is accepted within twelve months from the date of the application, the application shall (Except where an appeal has been lodged) become void. Provided that where, before or within three months after the expiration of the

Sl.No.	No.of Section.	Existing Section.	Amendments
		an application, the Controller shall, on payments of the prescribed fee, grant an extension of time, to the extent applied for but not exceeding three months.	(on paymen or revived beyond, the
7.	8.	After acceptance of an application and before sealing a patent, the Controller shall, if he thinks it advisable or is directed by Government so to do refer the specification for inquiry and report to any person whom he thinks fit.	Section 8 s
8.	9(1)	Any person may, on payment of the prescrib -ed fee, at any time within three months from the date of the advertisement of the acceptance of an application, give notice at the Patent Office of opposition to the grant of the patent on any of the following grounds, namely:-	For the wo months" s
9.	9(2)	Where such notice is given, the Controller shall give notice of the opposition to the applicant and shall, on the expiration of those three months, after hearing the applicant and the opponent, if desirous of being heard, decide on the case	
10.	10(1A)	New Clause	After sub ing sub s (1 A)Notwi Section ((a)an a on the gr it to an and refus or (b)disp as to pro the Contro existence case, tha ought to b direct tha cant or ap applicatio to him or Provided (1)the G direction had an opp (ii)an ap lie to the
11.	10(2)(b)	Where the sealing is delayed by an appeal to the Government or by a reference under Section 8, or by opposition to the grant of the patent, the patent may be sealed at such time as the Controller may direct;	The words shall be de

suggested.	Section as amended.
of the prescribed fee, be continued as the case may be, during, but not period of extension so requested.	the said period of twelve months, a request is made to the Controller for an extension of time by any period not exceeding three months, the application shall, on payment of the prescribed fee, be continued or revived, as the case may be; during, but not beyond, the period of extension so requested.
all be omitted.	
ds 'Three months' the words "Four all be substituted.	9(1)Any person may, on payment of the - - prescribed fee, at any time within four months from the date of the advertisement of the acceptance of an application, give notice at the Patent Office of opposition to the grant of the patent, on any of the following grounds, namely:-
	9(2)Where such notice is given, the Controller shall give notice of the opposition to the applicant, and shall, on the expiration of those four months, after hearing the applicant, and the opponent, if desirous of being heard, decide on the case.
ction (1) of Section 10, the follow- tion shall be added as (1 A)	
standing anything contained in sub where:- licant has agreed in writing that t to him of a patent he will assign er party or to a joint applicant to proceed with the application,	10 (1 A)Notwithstanding anything contained in Sub Section (1)where:- (a)an applicant has agreed in writing that on the grant to him of a patent he will assign it to another party or to a joint applicant and refuses to proceed with the application, or
es arise between joint applicants eding with an application, ler, if he is satisfied of the f such agreement or, in any other any joint applicant or applicants allowed to proceed alone, may such other party or joint appli- licants may proceed with the accordingly and may grant a patent em as the case may be:	(b)disputes arise between joint applicants as to proceeding with an application, the Controller, if he is satisfied of the exist- ence of such agreement or, in any other case, that any joint ~~application~~ applicant or applicants ought to be allowed to proceed alone, may direct that such other party or joint applicant or applicants may proceed with the application accordingly and may grant a patent to him or them as the case may be:
that - rtroller shall not give any such ntil every party interested has tunity of being heard by him, and	Provided that - (i)the Controller shall not give any such direction until every party interested has had an opportunity of being heard by him, and
eal from any such direction shall overnment	(ii)an appeal from any such direction shall lie to the Government.
or by a reference under Section 8' ted.	10(2)(b)Where the sealing is delayed by an appeal to the Government or by opposition to the grant of the Patent, the patent may be sealed at such time as the Controller may direct

Sl.No.	No.of Section.	Existing Section.
12.	10(2)(d)	Wherein consequence of the neglect or failure of the applicant, to pay any fee a patent cannot be sealed within the period allowed by this Section, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions, be extended to such an extent as may be prescribed.
13.	11	Provided that no proceeding shall be taken in respect of an infringement committed before the publication of the specification
14.	13(2)	Where a patent has been revoked on the ground of fraud or any other ground the Controller may on the application of the true inventor or his legal representative or assign made in accordance with the provisions of this Act, grant to him a patent in lieu of and bearing the same date as the patent so revoked, for any invention comprised in the revoked patent to which he was entitled: Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted.
15.	14(1)	The term limited in every patent for the duration thereof shall, save as otherwise, expressly provided by this Act be fourteen years from ~~xxxxx~~ its date.
16.		New Clauses.

nts suggested.	Section as amended.
owing sub section shall be substituted existing Section 10(2)(d) 'Where for son, a patent cannot be sealed within riod allowed by any of the foregoing ons of this Section, that period may, ment of the prescribed fee and on nce with the prescribed conditions, nded to the extent applied for but not ng three months	10(2)(d)Where for any reason a patent cannot be sealed within the period allowed by any of the foregoing provisions of this Section, that period may, on payment of the prescribed fee and on compliance, with the prescribed conditions be extended to the extent applied for but not exceeding three months,
words 'The publication of the Specifica- e words' "The advertisement of the nce of the application" shall be - tuted.	Provided that no proceeding shall be taken in respect of an infringement committed before the advertisement of the acceptance of the application
te the following sub section for sub (2) of Section 13. re a Patent has been revoked by the urt on the ground that it has been d in fraud of the true and first r, or where the grant of a patent n refused by the Controller under 9 on the ground stated in Clause (a) section (1) of that section, the ller may, on the application of the nventor or his legal representative ign made in accordance with the provi of this Act, grant to him a patent for le or any part of the invention, and tent so granted shall bear the same the patent so revoked or, in the a patent the grant of which has been , the same date as would have been y the patent if it had been granted: i that no suit shall be brought for ringement of the patent so granted d before the actual date when such was granted.	13(2)Where a Patent has been revoked by the High Court on the ground that it has been obtained in fraud of the true and first inventor, or where the grant of a patent has been refused by the Controller under Section 9 on the ground stated in Clause (a) of sub section (1) of that Section, the Controller may, on the application of the true inventor or his legal representative or assign made in accordance with the provisions of this Act, grant to him a patent for the whole or any part of the invention, and the patent so granted shall bear the same date as the patent so revoked or, in the case of a patent the grant of which has been refused, the same date as would have been borne by the patent if it had been granted: Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted
'Fourteen years, ' the words "Six- rs" shall be substituted.	14(1)The term limited in every patent for the duration thereof shall, save as otherwise expressly provided by this Act, be sixteen years from its date.
section (1) of section 14 the follow- ections (1 A) and (1 B) shall be	
patent the original terms of which expired on or before - - day of 93 , shall have effect as if the mentioned therein was sixteen years ad fourteen years, and any license in that date which has been granted herm of the patemt shall be treated vibeen granted for the term as so nder the licensee so desires.	(1 A)Any patent the original term of which had not expired on or before - - day of - - 193 , shall have effect as if the term mentioned therein was sixteen years instead of fourteen years, and any license existing at that date which has been granted for the term of the patent shall be treated as having been granted for the term as so extended if the licensee so desires.
Wh any party to a contract with patee or any other person entered be the - - - day of - - - , ibjected to loss or liability eas f the extension of the term ny nt under this section, any ric urt having jurisdiction may rmih what manner and by which ies loss or liability shall be e.	(1 B)Where any party to a contract with the patentee or any other person entered into before the - - - day of - - - 193 , is subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction may determine in what manner and by which parties such loss or liability shall be borne.

Sl.No.	No.of Section.	Existing Section.	Amendment
17.	14(2)	A patent shall, notwithstanding anything therein or in this Act, cease if the patentee fails to pay the prescribed fees within the prescribed times: Provided that the Controller, upon the application of the patentee, shall, on receipt of such additional fee, as may be prescribed, enlarge the time to such an extent as may be applied for but not exceeding three months.	The follow ed for th 'Provided within thr the time f for an ext exceeding payment of prescribed case may b period of
18.	15(1)	A patentee may, after advertising in the prescribed manner, his intention to do so, present a petition to the Government praying that his patent may be extended for a further term; but such petition must be left at the Patent Office at least six months before the time limited for the expiration of the patent and must be ~~accompanied by~~ accompanied by the prescribed fee.	The words 'a manner hi deleted. After the words 'a within th prescribe
19.	15(2)	Any person may give notice to the Controller of objection to the extension	After the "Give No as may be prescribed
20.	15(6)	If it appears to the Government or to the Chief Court when the petition has been referred to it, that the patentee has been inadequately remunerated by his patent, the Government or the Chief Court, as the case may be, may by order extend the term of the patent for a further term not exceeding seven or in exceptional cases, fourteen years, or may order the grant of a new patent for such term as may be specified in the order and subject to the payment of such fees as may be prescribed and containing any restriction, conditions and provisions which the Government or the Chief Court, as the case may be, may think fit: Provided that any patent so extended or granted shall, notwithstanding anything therein, or in this Act, cease if the inventor fails to pay before the expiration of each year the prescribed fee.	For the wo 'five' and For the words words
21.		New Section.	After Se be adde (1)Where applied the pa a furth improve tion, h patent patent as tha that t a pate of add afores (2)Save Act, a

suggested.	Section as amended.
ıg provis~~o~~ shall be substitut- proviso to section 14 (2) ıat where the patentee, before, or : months after the expiration of : payment, applies to the Controller ısion of time by any period not ıree months, the patent shall, on such additional fee as may be be continued or revived as the during, but not beyond, the xtension applied for.	14(2)A patent shall, notwithstanding anything therein in this Act, cease if the patentee fails to pay the prescribed fees within the prescribed times: Provided that where the patentee, before, or within three months after the expiration of the time for payment, applies to the - - Controller for an extension of time by any period not exceeding three months, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived, as the case may be, during, but not beyond, the period of extension applied for.
ter advertising in the prescribed intention to do so' shall be ~~xxxxx~~ words 'Prescribed fee', the must be advertised by the Patentee prescribed time and in the - - manner' shall be added.	A patentee may, present a petition to the Government praying that his patent may be extended for a further ~~xxxxx~~ term; but such petition must be left at the patent office at least six months before the time limited for the expiration of the patent and must be accompanied by the prescribed fee and must be advertised by the patentee within the prescribed time and in the prescribed manner.
rod 'May' and before the words ce the words" within such time rescribed and on payment of the fee shall be substituted.	Any person may within such time as may be - - prescribed and on payment of the prescribed fee give notice to the Controller of objection to the extension.
ds 'seven' and 'fourteen' the words 'ten' shall be substituted "the Chief Court" wherever they occur the High Court shall be substituted	If it appears to the Government or to the ~~Chief~~ High Court when the petition has been referred to it, that the patentee has been inadequately remunerated by his patent, the Government or the ~~Chief~~ High Court, as the case may be, may by order extend the term of the patent for a further term not exceeding five ~~xxxxx~~ or in exceptional cases, ten years, or may order the grant of a new patent for such term as may be specified in the order and subject to the payment of such fees as may be prescribed and containing any restriction, conditions and provisions which the Government or the ~~Chief~~ High Court, as the case may be may think fit: Provided that any patent so extended or granted shall, notwithstanding, anything therein, or in this Act, cease if the inventor fails to pay before the expiration of each year the - - prescribed fee.
t 15, the following section shall 5 (A). a ent for an invention has been f granted, and the applicant or en is the case may be, applies for er a patent in respect of any mer or modification of the inven- ma his application for the further req that the term limited in that for duration thereof be the same of original patent or so much of rm unexpired, and, if he does so, t(he after referred to as a patent tion be granted for such term as id. as o ise expressly provided by this pate addition shall remain in force	15 A.(1)Where a patent for an invention has been applied for or granted, and the applicant or the patentee, as the case may be, applies for a further patent in respect of any improvement in or modification of the invention, he may in his application for the further patent request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired, and, if he does so, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid. (2)Save as otherwise expressly provided by this Act, a patent of addition shall remain

Sl.No.	No.of Section.	Existing Section.	Amendments su
			in force as long as invention remains i respect of a patent payable for renewal Provided that if the invention is revoke shall, if the autho so orders, become an payable, and the dat shall be determined shall not exceed the for the original in 2. The grant of a pat conclusive evidence subject for a paten of the patent shall ground that the inv subject of an indepe
22.	18.	In any suit for infringement of a patent or proceeding before a Court for the revocation of a patent, the Court may by order allow the patentee to amend his specification by way of disclaimer in such manner, and subject to such terms as to costs, advertisement or otherwise, as the Court may think fit.	After the word 'Disc in such manne subs of explanatio.
23.	19.	Wherean amendment of a specification by way of disclaimer, correction or explanation has been allowed under this Act, no damages shall be given in any suit in respect of the use of the invention before the disclaimer, correction or explanation, unless the patentee establishes to the satisfaction of the Court that his - - original claim was framed in good faith and with reasonable skill and knowledge.	For the words 'Bef or explanatio, t the decision allow substituted.
24.	20(4)	Copies of deeds, licenses and any other documents affecting the proprietorship in any patent or in any license thereunder, must be supplied to the Controller in the prescribed manner for filing in the Patent Office, and unless such copies have been so supplied, such deeds, licenses, or other documents shall not be received as evidence of any transaction affecting a patent.	The words begiing with 'affect; a p
25.	21.	Subject to any conditions which the Government may have imposed, a patent shall have to all intents the like effect as against the Government of Mysore as it has against the subject. Provided that the officers or aurhorities administering any department of the service of the Government may, by themselves their agents, contractors, or others, at any time after the application, use the invention for the services of the Government on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Government between those officers or authorities and the patentee, or in default of agreement, as may be settled by the Government of Mysore after hearing all parties interested.	The follow Sec for the cing (1) Subject the Section, ten the like ct a of Mysor it h (2) The offs or any depat of ment of h, ma of their s, c be autho in after thica to the amt exercise nve Governmen suc

gested.	Section as amended.
the patent for the original force, but no longer, and in of addition no fees shall be payable	in force as long as the patent for the original invention remains in force, but no longer, and in respect of a patent of addition so fees shal be payable for renewal:
patent for the original , then the patent of addition ity by which it is revoked independent patent, and the fees s when they become payable, by its date, but its duration unexpired term of the patent ention.	Provided that if the patent for the original invention is revoked, then the patent of addition shall, if the authority by which it is revoked so orders, become an independent patent, and the fees payable and the dates when they become payable, shall be determined by its date, but its duration shall not exceed the unexpired term of the patent for the original invention.
it of addition shall be - - hat the invention is a proper of addition, and the validity ot be questioned on the tion ought to have been the dent patent.	The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independen patent.
aimer and before the words itute the words correction	In any suit for infringement of a patent or proceeding before a Court for the revocation of a patent the Court may by order allow the patentee to amend his specification by way of disclaimer, correction or explanation, in such manner and subject to such terms as to costs, advertisements as otherwise, as the Court may think fit.
e the diclaimer, correction e words 'Before the date of ng the amendment' shall be	Where an amendment of a specification by way of disclaimer, correction or explanation has been allowed under this Act no damages shall be given in any suit in respect of the use of the invention before the date of the decision allowing the amendment unless the patentee establishes to the satisfaction of the Court that his original claim was framed in good faith and with reasonable skill and knowledge.
ith'and unless'and ending tent shall be omitted'.	Copies of deeds licenses and any other documents affecting the proprietorship in any patent or in any license thereunder, must be supplied to the Controller in the prescribed manner for filing in the Patent Office.
ion shall be substituted Section 21.	Same as column
other provisions of this shall have to all intents s against the Government as against a subject.	
authorities administering the service of the Govern- by themselves or by such ntractors or others, as may citing by them, at any time ion, and after giving notice r patentee, make, use or tion for the service of the terms as may, either	

Sl.No. 1.	No.of Section. 2.	Existing Section. 3.	Amendments 4.
			either before or a agreed on,with the between such offic applicant or paten ment, as may be se after pœovided. A ment or license co or patentee and an officers or author so far as concerns of the invention f ment. (3)Where an inven any patent has, be ~~b~~een duly recorded on behalf of, the administering any the Government(suc communicated direc cant or patentee)s of their agents,co authorised in writ notice to the appl exercise the inven the service of the or other payment t notwithstanding th in the opinion of the disclosure to case may be,of the or the evidence of would be detriment be made confidenti applicant or paten mutually agreed up (4)In the event use or exercise of or the terms there scope of any recor shall be referred who ~~xxx~~ shall have or any question or be tried before a arbitrator upon su Court,referee or a the consent of the the validity of th the reference and between the applic or authorities. T ~~further,in settlin~~ ~~entitled to take i~~ ~~compensation which~~ ~~officers or author~~ arbitrator,further shall be entitled benefit or compens or any other perso received directly or from such offic patent. Provided that,i Government servant

ggested.	Section as amended. 5.

ter the use thereof ,be
approval of the Government,
rs or authorities and the
ee,or in default of agree-
tled in the manner herein-
l the terms of any agree-
cluded between the applicant
person other than such
ties,shall be inoperative
the making,use or exercise
r the service of the Govern-

tion which is the subject of
ore the date of the patent,
in a document by,or tried by or
fficers or authorities -
epartment of the service of
invention not having been
ly or indirectly by the appli-
ch officers or authorities,or such ~~officers~~
trators or others,as may be
ng by them,may,after giving
cant or patentee,make,use or
ion so recorded or tried for
Government,free of any royalty
th applicant or patentee,
existence of the patent. If,
uch officers or authorities,
he applicant or patentee,as the
document recording the invention
the trial thereof,if required,
l the public interest,it may
lly to counsel on behalf of the
ee, to any independent expert
n.

f a dispute as to the making
an vention under this section,
or as to the existence or
trial as aforesaid,the matter
o the High Court for decision,
pow to refer the whole matter
iss of fact arising thereon to
ped or official referee or an
h ms as it may direct. The
bitor,as the case may be,may, with
pars,take into consideration,
pat for the purposes only of
or determination of the issues
nt patentee and such officers
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~~,therms as aforesaid,shall be~~
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~~the plicant or patentee and such~~
~~tie~~ The Court,referee or
inttling the terms as aforesaid,
o take into consideration any
tion which the applicant or patentee,
interested in the patent,may have
r indirectly,from the Government
rs authorities in respect of such

ventor or patentee is a
and subject-matter of the invention

Sl.No. 1.	No.of Section. 2.	Existing Section. 3.	Amendments see 4.
			invention is certifie with work done in the shall be settled by applicant or patentee in the invention or
			(5)The right to us Government under the provisions for which include,and shall be to sell any articles no longer required f
			(6)Nothing in this Government or of any indirectly from the forfeited under any to customs or xxxx e
26.	22(1)	Any person interested may present a petition to the Government which shall be left at the patent Office together with the prescribed fee, alleging that the reasonable require-ments of the public with respect to a patented invention have not been satisfied,and praying for the grant of compulsory license,or in the alternative for the revocation of the Patent.	For the words beg and ending with the for a patented artic to an adequate extent substituted.
27.	22(4)	If the Government is of opinion,or where reference has been made under sub section-(2)to the Chief Court that Court finds,that the reasonable requirements of the public with reference to the patented invention have not been satisfied the patentee may be ordered to grant licenses on such xxxxxxxxxxxx terms as the Government or the Chief Court,as the case may be,may think just,or, ~~if the Government or the Chief Court,as the case may be,may think just, of~~, if the Government or the Chief Court is of opinion that the reasonable requirements of the public will not be satisfied by the grant of the licenses,the patent may be revoked by order of the Government or the Chief Court. Provided that an order of revocation shall not be made before the expiration of four years from the date of the patent,or if the patentee gives satiafactory reasons for his default.	For the words beg and ending with 'ne for the patented ar to an adequate exte words'the reasonab be satisfied 'the met shall be substi For the words "The Ch shall be substitut
28.	22(5)a 22(5)(a)	For the purposes of this Section the reasonable requirements of the public shall not be deemed to have been satisfied If by reason of the default of the patentee to manufacture to an adequate	For the words'th shall not be d 'the demand for to have been me terms' shall be

sted.	Section as amended. 5.
d by the Government to be connected course of such service, any such dispute he Government after hearing the and any other person having an interest atent.	
e an invention for the services of the provisions of this Section, or any this section ~~was~~ is substituted, shall deemed always to have included, the power made in pursuance of such right which are r the services of the Government.	
Section shall affect the right of the person deriving title directly or overnment to sell or use any articles aw for the time being in force relating cise.	
nning with 'Reasonable requirements' rd 'Satisfied' the words 'the demand ' in Mysore State is not being met and on reasonable terms' shall be	Any person interested may present a petition to the Government, which shall be left at the Patent Office, together with the prescribed fee alleging that the demand for a patented article in ~~British India~~ Mysore State is not being met to an adequate extent and on reasonable terms and praying for the grant of a compulsory license, or in the alternative for the revocation of the Patent.
nning with 'the reasonable requirements been satisfied' the words 'the demand icle in Mysore State is not being met t and on reasonable terms. For the requirements of the public will not ords and the demand will not adequately uted.	If the Government is of opinion, or where a reference has been made under Sub Section (2) to a High Court, that Court finds that the demand for the patented article in Mysore ~~Government~~ State is not being met to an adequate extent and on reasonable terms, the patentee may be ordered to grant licenses on such terms as the Government or the High Court, as the case may be, may think just or if the Government or the High Court is of opinion that the demand will not be adequately met by the grant of licenses, the patent may be revoked by order of the Government or the High Court.
Court" wherever they occur "The High Court"	Provided that an order of revocation shall not be made before the expiration of four years from the date of the patent, or if the patentee gives satisfactory reasons for ~~default~~ his default.
reasonable requirements of the public emed to have been satisfied' the words patented article shall not be deemed to an adequate extent and on reasonable substituted.	22(5) For the purposes of this section the demand for a patented article shall not be deemed to have been met to an adequate extent and on reasonable terms.

Sl.No. 1.	No.of Section. 2.	Existing Section. 3.	Amendments s 4.
29.	22(5)(a)	adequate extent and supply on reasonable terms the patented article,or any parts thereof which are necessary for its efficient working,or to carry on the patented process to an adequate extent or to grant licenses on reasonable terms, any existing trade or industry or the establishment of any new trade or industry in Mysore is unfairly prejudiced, or the demand for the patented article or the article produced by the patented process is not reasonably met; or	The words be with 'reaso
30.	22(5)(b)	If any trade or industry in Mysore is unfairly prejudiced by the conditions attached by the patentee before or after the commencement of this Regulation to the purchase, hire or use of the patented article or to the using or working of the patented process.	The words 'E Act' shall
31.	22(6)	An order of the Government or of the Chief Court directing the grant of any license under this section shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a linense and made between the parties to the ~~the~~ proceeding,	Sub Sectic
32.	23(1)	At any time not less than four year after the date of a patent granted under this Regulation any person may apply to the Government for the revocation of the patent on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside the territories of Mysore.	For the w the word substitu
33.	23(2)(c)	That the patentee refuses to grant a license on reasonable terms, then, subject to the provisions of this section,and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in Mysore, or give satisfactory reasons why the article or process is not so manufactured or carried on, the Government may make an order revoking the patent either - (i)forthwith; or (ii)after such reasonable interval as may be specified in the order,unless in the meantime it is shown to the satisfaction that the patented article or process is manufactured or carried ~~on~~ or within Mysore to an adequate extent.	After t 'Revok be ins After clause (b)ord to the to him

ggested.	Section as amended. 5.
inning with 'Or the demand'and ending ably met'shall be omitted.	22(5)(a)If by reason of the default of the patentee to manufacture to an adequate extent and supply on reasonable terms the patented article, or any parts thereof which are necessary for its efficient working or to carry on the patented process to an adequate extent or to grant licenses on reasonable terms, any existing trade or industry or the establishment of any new trade or industry in Mysore State is unfairly prejudiced, or
fore or after the commencement of this e omitted.	(b)If any trade or industry in Mysore State is unfairly prejudiced by the conditions attached by the patentee to the purchase,hire or use of the patented article, or to the using or working of the patented process.
(6) of Section 22 shall be omitted.	...
rds'For the revocation of the Patent' s'For relief under this Section'shall be ted.	23(1) At any time not less than four years after the date of a parent granted under this Act, any person may apply to the Government for relief under this section on the ground that the patented article or process is manufactured or carried on exclusively or mainly outside the territori of Mysore.
e words'An order' and before the word ng' the letter and bracket (a)shall rted. 3 (2)(c) add the following ~~xxxxxx~~ as clause (b) ring the patentee to grant a license applicant which may be a license exclusive or otherwise as the Government may direct.	23(2)(c) That the patentee refuses to grant a license on reasonable terms, then, subject to the provisions of this section, and unless the patentee proves that the patented article or process is manufactured or carried on to an adequate extent in Mysore State, or gives satisfactory reasons why the article or process is not so manufactured or carried on, the Government may make an order - (a)revoking the patent either - (i)forthwith; or (ii)after such reasonable interval as may be specified in the order,unless in the meantime it is shown to ~~him~~ the satisfac-tion that the patented article or process is manufactured or carried on within Mysore State to an adequate extent,or ~~(b)Xxxxx

Sl.No. 1.	No.of Section. 2.	Existing Section. 3.	Amendmer
34.	23. A.	New Section.	Insert the follow Section 23. 23.(A. An order 22 or of the Gov Section 23 direc shall,without pr enforcement, ope a deed granting patentee and all
35.	26.(1)(g)	That a part of the invention or the manner in which a part is to be made and used as described in the original or any amended specification,is not thereby sufficiently described under and that this insufficiency was fradulent or injurious to the public.	Before the words words 'the whole
36.	34. (1)	In a suit or proceeding for infringement or revocation of a patent,the Court may, if it thinks fit,and shall,on the request of either of the parties to the proceedings,call in the aid of an assessor or specially qualified,and try the case wholly or partially with his assistance.	For the words be substitute
37.	34A.	New Section.	After Section 34A. Notwithstandi 19,if the Co of a patent claims in th the infringe it may,subje as to the da reckoned and may deem de any of such regard to th the specific tion the Co conduct of claims in t to remain t
38.	35.	Where any person claiming to be the patentee of an invention,by circulars, advertisements or otherwise,threatens any other person with any legal proceedings or liability in respect of any alleged infringement of the patent,any person aggrieved thereby may bring a suit against him in a District Court having jurisdiction to try the suit,and may obtain an injunction against the continuance of such threats,and may recover such damage(if any) as he has sustained thereby,if the alleged - - infringement to which the threats - - related was not in fact an infringement of any legal rights of the person making such threats. Provided that this section shall not apply if the person making such threats with	For the word the words be substit Substitute person mak In the prov with 'If th 'this paten infringemen prosecuted

s suggested.	Section as amended.
	5.
ıg as Section 23(A) after	
: the High Court under Sec. :nment under Section 22 or .ng the grant of any license judice to any other method of ıte,as if it were embodied in license and executed by the)ther necessary parties.	Same as ~~x~~ in column 4.
ı part' wherever they occur the)r'shall be substituted.	(g)that the whole or a part of the invention or the manner in which the whole or a part is to be made and used as described in the original or any amended specification,is not thereby sufficiently described ~~in the original or any amended specification,is not sufficiently thereby sufficiently described~~ and that this insufficiency was fraudulent or is injurious to the public.
;ither of' the word 'All'shall	(1) 34.In a suit or proceeding for infringement or revocation of a patent,the Court May,if it thinks fit and shall on the request of all the parties to the proceedings, call on the aid of an assessor specially qualified,and try the case wholly or partially with his assistance.
4 add the following as Section	
g anything contained in Section r in any action for infringement iids that any one or more of the specification in respect of which ıent is alleged ~~xxxxxid~~ are valid, et to its discretion as to costs and te from which damages should be to such terms as to amendment as it sirable,grant relief in respect of claims which are infringed without e invlidity of any other claim in ation In exercising such discre- rt ma take into consideration the he parties in inserting such invalid e spcification or permitting them ere.	Same as in column 4.
s'to ~~e~~ one patentee of the invention' to ha an interest in a patent'shall ted.	When any person claiming ~~(~~to have an inter in a patent~~)~~ by circulars,advertisements or otherwise,threatens any other person with any legal proceedings or liability in respect of any alleged infringement of a patent,any person aggrieved thereby may bring a suit against him in a District Court having jurisdiction to try the suit,and may obtain an injunction against the continuance of such threats, and may recover such damage (if any) as he has sustained thereby,if the alleged infringement to which the threats related was not in fact an infringement of ~~(~~the patent~~)~~.
he wd 'Patent' for the words'of the ng su threats'	
so f the words ~~xxxxxxx~~ beginning per and ending with the words ' thords 'if an action for an of patent is commenced and- vith deligence, shall be substituted	~~(~~Provided that this section shall not apply if an action for infringement of the patent is commenced and prosecuted with due diligence

Sl.No. 1.	No.of Section. 2.	Existing Section. 3.	Amendments sug 4.
		with due diligence commences and prosecutes a suit for infringement of this patent.	
39.	41.	Where a design has been registered in one or more classes of goods, the application of the Proprietor of the design to register it in some one or more other classes shall not be refused, nor shall the registration thereof be invalidated. (a) on the ground of the design not being a new and original design, by reason only that it was so previously registered; or (b) on the ground of the design having been previously published in Mysore by reason only that it has been applied to goods of any class in which it was so previously registered.	In St word After shal Provi shal in t prev After
40.	48 A & 48 B.	New Sections.	After shall 48A.(petit regis (a)at desig follo (1)t regis (ii) Indi (iii desig (b)w regis groun of cl (the C Court any s Court 48B.T regis re-en to re Cl
41.	59(b)	Cancel the registration of a design either wholly or in respect of any particular goods in connection with which the design is - - registered.	
42	60	(1)Where a person claims to be entitled by assignment, transmission or other operation	

0 -

sted.

Section as amended.

5.

sectin (a) for the word 'and' the
'Or'shall be substituted.

sub section (b) the following proviso paras
be substituted:-
ed that such subsequent registration
not extend the period of copy right
e design beyond that arising from
us registration.
Section 48

Where a design has been registered in one or more classes of goods, the application of the proprietor of the design to register it in some one or more other classes shall not be refused, nor shall the registration thereof be invalidated-

(a) on the ground of the design not being a new or original design, by reason only that it was so previously registered; or

b) on the ground of the design having been previously published in ~~British India~~ Mysore State, by reason only that it has been applied to goods of any class in which it was so previously registered:

Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from previous registration.

ection 48, the following sections
be added:-

Any person interested may present a
on for the cancellation of the
ration of a design -

any time after the registration of the
, to the High Court on any of the - -
ing grounds, namely:-

at the design has been previously
ered in ~~British India~~ Mysore State; or

hat it has been published in ~~British~~ Mysore State
prior to the date of registration; or

that the design is not a new or original
or

thin one year from the date of the
ration, to the Controller on either of the
s specified in sub clauses (i) and (ii)
use (a)

)An appeal shall lie from any order of
ntroller under this Section to the High
and the Controller may at any time refer
ch petition to the High Court, and the High
shall decide any petition so referred.

e provisions of Section 21 shall apply to
ered designs as if those provisions were
cted herein and in terms made applicable
stered designs.

use (b) shall be omitted.

Same as column 4.

Sl.No. 1.	No.of Section. 2.	Existing Section. 3.	Amendmen
		operation of law to a patent,or to the copy-right in a registered design,the Controller shall,on request and on proof of title to his satisfaction,register his interest in such patent or design. (2)Where any person claims to be entitled as mortgagee,licensee or otherwise to any interest in a patent or registered design, the Controller,shall,on request and on proof of title to his satisfaction,cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be, (3)The person registered as the Proprietor of a patent or design shall,subject to the provisions of this ~~Regulation~~ Act and to any rights appearing from the register to be vested in any other person,have power absolutely to assign,grant licenses as to, or otherwise deal with,the patent or design and to give effectual receipts for any consideration for any such assignment,license or dealing: Provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other moveable property.	
43.	61.	(1)The Chief Court may, on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the Register of Patents or Designs of any entry,or by any entry made in either such Register without sufficient cause,or by any entry wrongly remaining on either such register, or by an error or defect in any entry in either such register,make such order for making, expunging or varying such entry as it may think fit. (2)The Court may in any proceeding under this Section decide any question that it may be necessary or expedient to decide in connection with the rectification of a register.	

suggested.	Section as amended. 5.
following Section shall be substi- for Section 60. here a person becomes entitled by assign- ransmission or other operation of law patent or to the copyright in a registered , he may make application to the - - ller to register his title, and the - - ller shall, on receipt of such applica- nd on proof of title to his satisfac- egister him as the proprietor of such or design, and shall cause an entry made in the prescribed manner in the er of the assignment, transmission or other ment affecting the title. here any person becomes entitled as mortgagee, licensee erwise to any interest in a patent or ered design, he may make application to ntroller to register his title, and the ller shall, on receipt of such application proof of title to his satisfaction, cause notice of terest to be entered in the prescribed in the register of patents or designs, case may be, with particulars of the ment, if any, creating such interest. he person registered as the proprietor patent or design, shall, subject to the sions of this Act and to any rights ring from the Register to be vested in ther person, have power absolutely to assign, licenses as to, or otherwise deal with, atent or design and to give effectual pts for any consideration for any such nment, license or delaing. ovided that any equities in respect of the t or design may be enforced in like r as in respect of any other moveable rty. Except in the case of an application made Section 61, a document or instrument in ct of which no entry has been made in the ster in accordance with the provisions of sections (1) and (2) shall not be admitted idence in any Court in proof of the title a patent or ~~copyright~~ copyright in a design any interest therein, unless the Court, for ons to be recorded in writing, otherwise cts. In clause (1) of Section 61 for the words ~~Court~~' the words 'The Controller' shall bstituted. For the words 'As it may k fit', the words 'as he thinks fit' shall bstituted. In Clause (2) of Sec.61 for the word 'Court' word 'Controller' shall be substituted.	Same as in column 4.

Sl.No.	No.of Section.	Amendments suggested. Existing Section.	A
1.	2.	3.	
		(3)The prescribed notice of any application under this Section shall be given to the Controller,who shall have the right to appear and be heard thereon.	For sub
		(4)Any order of the Court rectifying a register shall direct that notice of the rectification be served on the Controller in the prescribed manner,who shall upon the receipt of such notice rectify the register accordingly.	An a any sec any Hig Cou so
			Aft sec
			(5) to
			(or pat cor a r or mad or
			the for
45.	67[xx]	(1)Where an appeal is declared by this Act to lie from the Controller to the Government, the appeal shall be made within two months of the date of the order passed by the - - Controller and shall be in writing,and accompanied by the prescribed fee.	
		(2)In calculating the said period of two months the time(if any)occupied in granting a copy of the order appealed against shall be excluded.	

ndments suggested. 4.	Section as amended. 5.
ub section 3 of sec.61 the following section shall be substituted:-	64.(1)The Controller may, on the application in the prescribed manner of any person aggrieved by the non-insertion in or omission from the Register of Patents ~~and~~ or designs of any entry or by any entry made in either such register without sufficient cause,or by any entry ~~made~~ wrongly remaining on either such register,~~xxxx

Sl.No. 1.	No.of Section. 2.	Existing Section. 3.	Amend
46.	70A.	New Section.	The follo 70 as Se 70A.Wher tion und Court of Controll carried Controll may requ the paym be incur the case being gi dismiss
47.	75(1)	(1)If the Government of Mysore makes any arrangement with the United Kingdom or with the Government of ~~India~~ British India or any other State for mutual protection of inventions or designs and declares,by a Notification in the official Gazette, the provisions of this section to be applicable in such cases then any person who has applied for protection for any invention or design in the United Kingdom,British India or the other State shall be entitled to a patent for his invention or to ~~Regulation~~ registration of his design under this Act in priority to other applicants and the patent of registration shall have the same date as the date of the ~~xxx~~ application in the United Kingdom, British India or the other State:-	In sub after th word 'Sh represen By Sec
48.	Schedule:	The Schedule (See Section54). Fees: On application for a patent Rs ~~50~~ 10 Before sealing a Patent Rs 30 Before the expiration of the 4th year from the date of the patent. Rs 50 Before the expiration of the 5th year from the date of the patent Rs 50 Before the expiration of the 6th year from the date of the patent. Rs50 Before the expiration of the 7th year from the date of the ~~xxxxxx~~ patent Rs 50	The fo for t On app Before Before 4th y ~~xxxx~~ Before 5th y paten Before 6th y paten Before 7th y the

nts suggested. 4.	Section as amended. 5.
.ng shall be inserted after Section ;ion 70A:-	
a person giving notice of any opposi- : this Act or giving notice to the ıppeal from any decision of the - - : under this Act,neither resides nor ı business in Mysore State,the - - : or the Court,as the case may be, :e such person to give security for ıt of all costs incurred and likely to ed in the proceedings or appeal,as may be,and, in default of such security en,may disallow the opposition or ıe appeal.	Same as in column
section(1) of Section 75 of the Act word 'Other State' and before the l be entitled' the words 'or his legal itive or assignee'shall be substituted.	75(1)If the Government of Mysore makes any arrangement with the United Kingdom or with the Government of British India or any other State for mutual protection of inventions or designs and declares by a notification in the Official Gazette, the provisions of this Section to be applicable in such case then any person who has applied for protection for any invention or design in the United Kingdom, British India or other State,or his legal representative or assignee ~~xx~~ shall be entitled to a patent for his invention or to registration of his design under this Act in priority to other applicants and the patent or registration shall have the same date as the date of the application in the United Kingdom,British India or the other State: Provided that - (a)The application is made in case of a Patent within twelve months and in the case of a design within six months from the application for protection in the United Kingdom,British India or the other State.
, 75(1)(a) for the word "four" the word "six" shall be substituted	
llowing Schedule shall be substituted he existing Schedule.	

The Schedule (See Section 54)

	Fees.
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sealing a patent	Rs30
the expiration of the ear from the date of the xx patent	Rs50
the expiration of the ear from the date of the t.	Rs50
the expiration of the ear from the date of the t.	Rs50
the expiration of the ear from the date of patent.	Rs50

Same as in column 4.

Sl.No. 1.	No.of Section. 2.	Existing Section. 3.		Amendments sug 4.
		Before the expiration of the 8th year from the date of the Patent.	Rs 50	Before the ex 8th year fro the Patent.
		Before the expiration of the 9th year from the date of the Patent.	Rs100	Before the ex 9th year fro the Patent.
		Before the expiration of the 10th year from the date of the Patent.	Rs100	Before the e 10th year fr the Patent.
		Before the expiration of the 11th year from the date of the patent.	Rs100	Before the ex 11th year fr the Patent.
		Before the expiration of the 12th year from the date of the Patent	Rs100	Before the ex 12th year fr the Patent.
		Before the expiration of the 13th year from the date of the patent.	Rs100	Before the ex 13th year fr the Paten
		Provided that the fees for two or more years may be paid in advance.		Before the ex 14th year fr the Patent.
		On application to extend term of a Patent.	Rs 50	Before the ex 15th year fr the Patent.
		Before the expiration of each year of the extended term of a Patent or of a new patent granted under Sec.15.	Rs100	Provided tha two or more paid in adv
		On application for registration of a design	Rs 3/-.	ON application to extend Before the expiration of ea patent On applicati term of a Pa patent grant
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sted.	Section as amended. 5.	
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EX-OFFICIO CONTROLLER OF PATENTS AND DESIGNS. 4 8 36

ds.

PATENTS AND DESIGNS (Amendment) BILL.

Note on the amendments in the Select Committee.

Preamble.

Follows the British Indian Act XII of 1939.

Clause 3 - (a)

(ia) - inserted in the interests of clarity.

(g) applicants claiming the benefits of Section 75 frequently include in their Mysore specifications subject matter in excess of that disclosed in the corresponding specifications filed by them abroad in the date claimed for the Mysore Patent. The amendmen provides for the examination of this aspect of the priority specifications.

(h) every alleged modification for which a patent of addition is sought under Section 15A may not be a fit subject for such a patent. The amendment will enable the Patent office to regulate the grant of patents of this class.

Clause 3 -(b)

This is intended to safeguard the interest of the public where the grant of a patent is likely to conflice with a prior grant.

Cluae 3 -(c)

This is consequential on the amendment in (b) above.

Clause 3-(d)

This makes it clear that the applicant has a right to appeal where the delay is not of his causing.

Clause 3 (e)

This is the same as clause (b) in the original Bill But with certain additional consequential changes.

Clause 6 (b)

(i) This is a minor amendment and is in accordance with the British Indian Act of 1939.

Clause 9 (b)

(I-B) This is the same as the clause in the original Bill but with some formal amendments which follow other examples already in the Act.

Clause 9 (c)

This is to make it clear that extension of time permissible is 3 months from the date of expiration of the period of twelve months.

Clause 10 -(c)

At present there is no statutory obligation on the part of Government to follow the principles laid down for the High Court in section 15(5) but in disposing of cases they generally follow these principles. The amendment brings the interia for Government and the High Court into line and removes minor defects.

Clause 19.

By this amendment a sub-section which follows closely the provisions of the United Kingdom Act after its amendment in recent years, is substituted.

Clause 19-A.

(a) This amendment was added in the Assembly.

(b) The existing wording appears to autnorise defendants in infringement proceedings to raise for the consideration of the Court, questions which are specifically reserved for the Government under Sections 23, 24 and 25 of the Act. The proposed amendment will remove this defect.

Clause 22 - A

Sub-section (1) of Section 37 has been omitted as its provisions are replaced by the new Section 26 (x) Amendment of sub-section (2) is consequential on the amendments proposed in sections 5 and 26.

Clause 22 B

The existing sub-section (2) which is intended to

apply to exhibitions held outside Mysore has been omitted in the proposed amendment which follows the existing sub-section(1) but is comprehensive enough to cover exhibitions held within as well as outside Mysore. The amended section also protects the rights of the inventor for the grant of a patent even in cases where disclosure of the invention is made after the holding of the exhibition and includes provision for the reading of papers before learned societies and publication in journals of societies.

Cluse 23 A.

The prescription of time serves no useful purpose and is therefore omitted.

Clause 24A.

The same reasons apply here as in the case of Clause ~~22x(B~~x 22 B.

Clause 24- B.

To deal with the piracy of designs abroad it is essential that the owner should have a remedy against the importer of pirated designs without being required to prove that the importer was aware that the design was pirated. At the same time it is made clear that copyright gives protection only vis-a-vis the particular class of goods in which the design is registered.

Clause 24 C.

This addition is based on section 44 A of the United Kingdom Act and is designed to assist the public. It follows the British Indian Act of 1939.

Clause 27 A.

This will empower the Controller to receive evidence by commission, which is desirable as witnesses who can give useful evidence often reside at a great distance from the Controller and to order the realization of costs awarded by him. The other amendments are formal.

Clause 29 A.

This will enable the Controller to prevent waste of time, as parties frequently summon witnesses to prove matters which could be adequately proved by affidavit

Clause 29 B.

Parties to proceedings in Courts instead of obtaining on payment, certified copies of public documents which are open to inspection of the public in the Patent Office often, arrange for the issue of sub-poenas by Courts on the Controller for the production of original documents. This practice causes unnecessary inconvenience.

Clause 31 (a)

This amendment makes it clear that any person who has applied for protection of any invention or design outside Mysore is not entitled to a patent or to registration of his designs in Mysore as a matter of course the application merely enables a claim which is good on its merits to secure priority and to be dated back

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PATENTS AND DESIGNS (amendment) BILL.

REPORT OF THE SELECT COMMITTEE

We the members of the Select Committee to which the Bill to amend the Patents and Designs Act, 1925 was referred have considered the several clauses of the Bill and have now the honour to submit the following report:-

We have considered the British Indian Act XII of 1939 amending the law relating to the Protection of Inventions and Designs and we have recommended the addition in our Bill of similar provisions wherever found necessary.

We recommend that the preamble may be recast as follows:-

"Whereas it is expedient further to amend the Law relating to the protection of patents and designs, it is hereby enacted as follows:-"

Clause 3. -- In clause 3 sub-clause (a) after (i) we recommend the addition of the following as (ia):-

"(ia) in clause (c) after the words "the title" the words "or the specification" shall be inserted;

and in ~~xkx~~ (ii) for clause (f) we recommend that the following clauses be inserted, namely -

"(f) the specification relates to more than one invention

or

(g) in the case of an application claiming priority under section 75 the specification describes and claims in invention substantially larger than or substantially different from the invention disclosed in the specification filed with the application made outside Mysore by virtue of which priority is claimed,

or

(h) in the case of an application for a patent of addition under section 15A, the invention described and claimed in the specification is not an improvement or modification of that described and claimed in the original specification."

We also recommend that the following clauses may be added as (b), (c), and (d), the existing sub-clause (b) being renumbered as (e)

(b) after sub-section (1) the following sub-section shall be inserted, namely -

"(IA) If the Controller considers, at any time before the acceptance of an application, that the invention claimed therein has been wholly or in part claimed in a specification published on or after the date which the patent applied for would bear if granted, appertaining to an application for a patent which if granted will be of prior date to the patent applied for, he may require -- that the applicant's specification be amended by the

insertion of a reference to such other specification, by way of notice to the public";

(c) in sub section (2) after the word "amendment" the words "or the insertion of a reference " shall be inserted;

(d) in sub section (4) for the words " become void " the words " be deemed to have been refused " shall be substituted.

We recommend that the proviso to sub section (4) sought to be substituted by the renumbered sub clause (e) may be recast as follows:-

" provided that where, before or within three months after the expiration of the said period oftwelve months a request is made to the Controller for an extension of time, the application shall on payment of the prescribed fee be continued for any period so requested not exceeding in all three months from the expiration of said period of twelve months "

Clause 6 - We recommend that sub-clause (b) (i) of this clause may be recast as follows:-

(i) in Clause (b) of the proviso, the words " or, by a reference under Section 8 " shall be omitted, and after the word "patent" where it occurs for the first time, the words " or by any proceedings taken for obtaining a direction of the Controller under the provisions of sub-section (1A)" shall be substituted.

Clause 9 - We recommend that sub section (1-B) sought to be added to section 14 by sub clause (b) may be recast as follows:-

" (1B) where any party to a contract with the patentee or any other person entered into before the first day of - - - - - 193 is subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction may, on application made in this behalf, determine in what manner and by which parties such loss or liability shall be borne. "

We also recommend that the proviso to sub section (2) proposed to be substituted by sub clause (c) may be recast as follows:-

" Provided that where the patentee, before or within three months after the expiration of the time for payment, applies to the Controller for an extension of time, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived as the case may be, for any period so applied for not exceeding in all three months from the expiration of the time for payment."

Clause 10 - We recommend that sub clause (c) may be recast as follows:-

" (c) for sub sections 5 and 6 the following sub sections shall be substituted, namely -

(5) The Government or the High Court to which a petition is referred shall in considering the petition have regard to the nature and merits of the invention in relation to the public, to the profits made on the patent and to all the circumstances of

the case.

(6) If it appears to the Government or to the High Court when the petition is referred to it, that the patent has not been sufficiently remunerative, the Government or the High Court, as the case may be, may by order extend the term of the patent for a further term not exceeding five or in exceptional cases ten years or may order the grant of a new patent for such term not exceeding ten years as may be specified in the order and subject to any restriction, conditions and provisions which the Government or the High Court, as the case may be, may think fit."

Clause 15. - We recommend that in sub-section (6) of the (proposed) section 21 the last three words "relating to exceptional cases" may be omitted.

Clause 19. - We recommend that clause 19 may be recast as follows:-

For sub-section (1) of section 26 of the said Act, the following sub-section shall be substituted, namely:-

"(1) Revocation of a patent in whole or in part may be obtained on petition to or on a counter claim in a suit for infringement before the High Court on all or any of the following grounds, namely:-

(a) that the invention has been the subject of a valid prior grant of a patent in Mysore;

(b) that the true and first inventor or his legal representative or asigned was not the applicant or one of the applicants for the patent;

Allowing for the revocation on application of any person

(c) that the patent was obtained in fraud of the rights of the person under or through whom he claims;

(d) that the invention was not, at the date of the patent a manner of new manufacture or improvement;

(e) that the invention ~~was not at the date of the patent~~ does not involve any inventive step having any regard to what was known or used prior to the date of the patent;

(f) that the invention is of no utility;

(g) that the specification does not sufficiently and fairly describe and ascertain the nature of the invention and the manner in which the invention is to be performed;

(h) that the specification does not sufficiently and clearly ascertain the scope of the invention claimed;

(i) that the patent was obtained on a false suggestion or representation;

(j) that the primary or intended use or exercise of the invention is contrary to law;

(k) that the patentee has contrevened, or has not complied with, the conditions contained in the patent;

(l) that the specification does not disclose the best method of performance of the invention known to the applicant for the patent at the time when the specification was left at the patent office;

(m) that prior to the date of the patent, the patentee or other persons (not being authorities administering any department of the service of His Highness the Maharaja, or the agents or contractors of, or any other persons authorised in that behalf by the Government) secretly worked the invention on a commercial scale (and not merely by way of reasonable trial or experiment) in Mysore, and thereby made direct or indirect profits in excess of such amount as the Court may in consideration of all the

circum-

stances of the case deem reasonable:
Provided that this sub-section shall have effect in relation to the ground of revocation specified -
(i) in clause (b), subject to the provisions of section 75, or
(ii) in clause (d), subject to the provisions of sub-section (1) of section 13, sub-section (2) of section 21, section 37 and section 39."

After clause 19 we recommend the addition of another clause as follows:-

19A.(a) To sub-section 1 of section 29 of the said Act, the following proviso shall be added, namely-
"Provided that where a counter claim for revocation of the patent is made by the defendant, the suit along with the counter claim shall be transferred to the High Court for decision."
(b) In sub-section (2) of section 29 of the said Act, for the words "this Act" the word and figure "section 26" shall be substituted.

After clause 22 we recommend the addition of two other clauses as follows:-

22A- For Section 37 of the said Act the following section shall be substituted, namely:-
"37, The Public use or knowledge of an invention in any country before the date of the application for a patent thereon shall not invalidate the patent granted thereon if the knowledge has been obtained surreptitiously or in fraud of the true and first inventor or his legal representative or assignee or has been communicated to the public in fraud of such inventor or his legal representative or assign or in breach of confidence: Provided that such inventor or his legal representative or assign has not acquiesced in the public use of his invention, and that he applies for a patent within six months after the commencement of such use."

22B-for section 39 of the said Act the following section shall be substituted, namely:-
"39. The exhibition of an invention at an industrial or other exhibition to which the provisions of this section have been extended by the Government by notification in the official Gazette or the publication of any description of the invention during the period of the holding of the exhibition or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention or the publication of any description thereof, during or after the period of the holding of the exhibition, by any person elsewhere without the privity or consent of the inventor or the reading of a paper by an inventor before a learned society, or the publication of that paper in the society's transactions shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention, or the validity of any patent granted on the application:
Provided that-
(a) the exhibitor exhibiting the invention or the inventor reading the paper or authorising the publication thereof as the case may be, gives to the Controller previous notice in the prescribed form; and
(b) the application for a patent is made before or within six months from the date of first exhibiting the in-

invention or of the reading of the paper, as the case may be, or when it has not been so read, of the said publication.

After clause 23 we recommend the addition of another clause as follows : -

23A - In Sub Sections (2) and (3) of Section 44 of the said Act, the words "within the prescribed time" shall be omitted.

We recommend the addition of three other clauses after clause 24 as follows:-

24A - For section 49 of the said Act, the following section shall be substituted, namely: -

" 49 The exhibition of a design, or of any article to which a design is applied, at an industrial or other exhibition to which the provisions of this section have been extended by the Government by notification in the official Gazette, or the publication of a description of the design, during the period of the holding of the exhibition, or the exhibition of the design or the article or the publication of a description of the design by any person elsewhere during or after the period of the holding, of the exhibition, without the privity or consent of the proprietor, shall not prevent the design from being registered or invalidate the registration thereof. -

Provided that -

(a) the exhibitor exhibiting the design or article, or publishing a description of the design, gives to the Controller previous notice in the prescribed form; and

(b) the application for registration is made within six months from the date of first exhibiting the design or article or publishing a description of the design.

24B - In Sub Section (1) of section 50 of the said Act,-

(a) After clause (a) the following clause shall be inserted namely -

"(aa) to import for the purpose of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof; or";

(b) in sub clause (b), after the words "applied to any article" the words "in any class of goods in which the design is registered" shall be inserted.

24C - After section 56 of the said Act the following section shall be inserted, namely -

"56A. A person making a request to the Controller in the prescribed manner as respects any ~~xxtxxxxxxxxxxxxxxxxxx~~ patent specified in the request or as respects any application for a patent so specified, for information to be furnished to him by the Controller or any such matters as may be prescribed affecting that patent or application, shall be entitled, subject to the payment of the prescribed fee to have information supplied to him accordingly."

After clause 27 we recommend the addition of another clause as follows: -

27A. In section 62 of the said Act, the word "and" in the first threeplaces where it occurs, shall be

omitted, and for the words "compelling the production of documents and awarding costs" the words "compelling the discovery and production of documents, issuing commissions for the examining of witnesses and awarding costs and such award shall be executable in any court having jurisdiction as if it were a decree of that court" shall be substituted.

After clause 29 we recommend the addition of two other clauses as follows:-

29A. After the heading "Evidence etc." and before section 68 of the said Act, the following section shall be inserted namely:-

"67A. Subject to any rules made under section 73 in any proceeding under this Act before the Controller, the evidence shall be given by affidavit, in the absence of directions by the Controller to the contrary; but in any case in which the Controller thinks it right so to do he may take evidence VIVA VOCE in lieu of or in addition to evidence by affidavit or may allow any party to be cross examined on the contents of his affidavit."

29B. After section 68 of the said Act, the following section shall be inserted, namely:-

"68A. Printed or written copies or extracts, purporting to be certified by the Controller and sealed with the seal of the Patent Office, of or from patents, specifications and other documents in the Patent Office and of or from registers and other books kept there, shall be admitted in evidence in all courts in Mysore, and in all proceedings without further proof or production of the originals:

Provided that a court may if it has reason to doubt the accuracy or authenticity of the copies tendered in evidence, require the production of the originals or such further proofs as it considers necessary."

Clause 31, We recommend that sub-clause (a) may be recast as follows:-

(a) in sub-section (1) for the words "shall be entitled to a patent for his invention or to registration of his design under this Act, in priority to other applicants; and the patent or registration shall have the words "or his legal representative or assignee shall, either alone or jointly with any other person be entitled to claim that the patent that may be granted to him under this Act, for the said invention or the registration of the said design under this Act, shall be in priority to other applicants and shall have" shall be substituted.

In the Schedule proposed to be substituted for the present one, we recommend that the words "Before the expiration of", where they occur in the penultimate entry, the words "In respect of" shall be substituted.

As the Bill has been materially altered we recommend republication.

C Ramachandra Rao

13/5/39

PATENTS AND DESIGNS (amendment) BILL. 122

REPORT OF THE SELECT COMMITTEE

We the members of the Select Committee to which the Bill to amend the Patents and Designs Act, 1925 was referred have considered the several clauses of the Bill and have now the honour to submit the following report:-

We have considered the British Indian Act XII of 1939 amending the law relating to the protection of Inventions and Designs and we have recommended the adoption in our Bill of similar provisions wherever found necessary.

We recommend that the preamble may be recast as follows:-

"Whereas it is expedient further to amend the Law relating to the protection of patents and designs, it is hereby enacted as follows:-"

Clause 3. -- In clause 3 sub-clause (a) after (i) we recommend the addition of the following as (ia):-

"(ia) in clause (c) after the words "the title" the words "or the specification" shall be inserted;

and in ~~xkx~~ (ii) for clause (f) we recommend that the following clauses be inserted, namely -

"(f) the specification relates to more than one invention

or

(g) in the case of an application claiming priority under section 75 the specification describes and claims in invention substantially larger than or substantially different from the invention disclosed in the specification filed with the application made outside Mysore by virtue of which priority is claimed,

or

(h) in the case of an application for a patent of addition under section 15A, the invention described and claimed in the specification is not an improvement or modification of that described and claimed in the original specification."

We also recommend that the following clauses may be added as (b), (c), and (d), the existing sub-clause (b) being renumbered as (e)

(b) after sub-section (1) the following sub-section shall be inserted, namely -

"(IA) If the Controller considers, at any time before the acceptance of an application, that the invention claimed therein has been wholly or in part claimed in a specification published on or after the date which the patent applied for would bear if granted, appertaining to an application for a patent which if granted would be of prior date to the patent applied for, he may require -- that the applicant's specification be amended by the

insertion of a reference to such other specification, by way of notice to the public";

(c) in sub section (2) after the word "amendment" the words or the insertion of a reference " shall be inserted;

(d) in sub section (4) for the words " become void " the words " be deemed to have been refused " shall be substituted.

e recommend that the proviso to sub section (4) sought to be substituted by the renumbered sub clause (e) may be recast as follows:-

" provided that where, before or within three months after the expiration of the said period oftwelve months a request is made to the Controller for an extension of time, the application shall on payment of the prescribed fee be continued for any period so requested not exceeding in all three months from the expiration of the said period of twelve months "

Clause 6 - e recommend that sub-clause (b) (i) of this clause be recast as follows:-

(i) in Clause (b) of the proviso, the words " or, by a reference under section 6 " shall be omitted, and after the word "patent" where it occurs for the first time, the words " or by any proceeding taken for obtaining a direction of the Controller under the provisions of sub-section (1A)" shall be substituted.

Clause 9 - e recommend that sub section (1-B) sought to be added to section 1 by sub clause (b) may be recast as follows:-

" (1B) where any party to a contract with the patentee or any other person entered into before the first day of - - - - - 193 is subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction may, on application made in this behalf, determine in what manner and by which parties such loss or liability shall be borne. "

e also recommend that the proviso to sub section (2) proposed to be substituted by sub clause (c) may be recast as follows:-

" Provided that where the patentee, before or within three months after the expiration of the time for payment, applies to the Controller for an extension of time, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived as the case may be, for any period so applied for not exceeding in all three months from the expiration of the time for payment."

Clause 10 - e recommend that sub clause (c) may be recast as follows:-

" (c) for sub sections 5 and 6 the following sub sections shall be substituted, namely -

(5) The Government or the High Court to which a petition is referred shall in considering the petition have regard to the nature and merits of the invention in relation to the public, to the profits made on the patent and to all the circumstances of

the case.
(6) If it appears to the Government or to the High Court when the petition is referred to it, that the patent has not been sufficiently remunerative, the Government or the High Court, as the ~~case~~ case may may by order extend the term of the patent for a further term not exceeding five or in exceptional cases ten years or may order the grant of a new patent for such term not exceeding ten years as may be specified in the order and subject to any restrictions, conditions and provisions which the Government or the High Court, as the case may be, may think fit."

Clause 15. - We recommend that in sub-section (6) of the (proposed) section 21 the last three words "relating to ~~extend~~" may be omitted.

Clause 19. - We recommend that clause 19 may be recast as follows:-

For sub-section (1) of section 26 of the said Act, the following sub-section shall be substituted, namely:-
"(1) Revocation of a patent in whole or in part may be obtained on petition to or on a counter claim in a suit for infringement before the High Court on all or any of the following grounds, namely:-

applying for the revocation or of any person

(a) that the invention has been the subject of a valid prior grant of a patent in Mysore;
(b) that the true and first inventor or his legal representative or assignee was not the applicant or one of the applicants for the patent;
(c) that the patent was obtained in fraud of the rights of the person, under or through whom he claims;
(d) that the invention was not, at the date of the patent a manner of new manufacture or improvement;
(e) that the invention ~~was only a~~ does not involve any inventive step having any regard to what was known or used prior to the date of the patent;
(f) that the invention is of no utility;
(g) that the specification does not sufficiently and fairly describe and ascertain the nature of the invention and the manner in which the invention is to be performed;
(h) that the specification does not sufficiently and clearly ascertain the scope of the invention claimed;
(i) that the patent was obtained on a false suggestion or representation;
(j) that the primary or intended use or exercise of the invention is contrary to law;
(k) that the patentee has contravened, or has not complied with, the conditions contained in the patent;
(l) that the specification does not disclose the best method of performance of the invention known to the applicant for the patent at the time when the specification was left at the patent office;
(m) that prior to the date of the patent, the patentee or other persons (not being authorities administering any department of the service of His Highness the Maharaja, or the agents or contractors of, or any other persons authorised in that behalf by the Government) secretly worked the invention on a commercial scale (and not merely by way of reasonable trial or experiment) in Mysore, and thereby made direct or indirect profits in excess of such amount as the Court may in consideration of all the

circum-

stances of the case deem reasonable:

Provided that this sub-section shall have effect in relation to the ground of revocation specified -

(i) in clause (b), subject to the provisions of section 75, or

(ii) in clause (d), subject to the provisions of sub-section (1) of section 13, sub-section (2) of section 21, section 37 and section 39."

After clause 19 we recommend the addition of another clause as follows:-

19A.(a) To sub-section 1 of section 29 of the said Act, the following proviso shall be added, namely-

"Provided that where a counter claim for revocation of the patent is made by the defendant, the suit along with the counter claim shall be transferred to the High Court for decision."

(b) In sub-section (2) of section 29 of the said Act, for the words "this Act" the word and figure "section 26" shall be substituted.

After clause 22 we recommend the addition of two other clauses as follows:-

22A- For Section 37 of the said Act the following section shall be substituted, namely:-

"37. The public use or knowledge of an invention in Myself before the date of the application for a patent thereon shall not invalidate the patent granted thereon if the knowledge has been obtained surreptitiously or in fraud of the true and first inventor or his legal representative or assignee or has been communicated to the public in fraud of such inventor or his legal representative or assign or in breach of confidence: Provided that such inventor or his legal representative or assign has not acquiesced in the public use of his invention, and that he applies for a patent within six months after the commencement of such use."

22B-for section 39 of the said Act the following section shall be substituted, namely:-

"39. The exhibition of an invention at an industrial or other exhibition to which the provisions of this section have been extended by the Government by notification in the official Gazette or the publication of any description of the invention during the period of the holding of the exhibition or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention or the publication of any description thereof, during or after the period of the holding of the exhibition, by any person elsewhere without the privity or consent of the inventor or the reading of a paper by an inventor before a learned society, or the publication of that paper in the society's transactions shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention, or the validity of any patent granted on the application;

Provided that-

(a) the exhibitor exhibiting the invention or the inventor reading the paper or authorising the publication thereof as the case may be, gives to the Controller previous notice in the prescribed form; and

(b) the application for a patent is made before or within six months from the date of first exhibiting the in-

invention or of the reading of the paper, as the case may be, or when it has not been so read, of the said publication.

After clause 23 we recommend the addition of another clause as follows : -

23A - In Sub Sections (2) and (3) of Section 44 of the said Act, the words "within the prescribed time" shall be omitted.

We recommend the addition of three other clauses after clause 24 as follows:-

24A - For section 49 of the said Act, the following section shall be substituted, namely: -

" 49 The exhibition of a design, or of any article to which a design is applied, at an industrial or other exhibition to which the provisions of this section have been extended by the Government by notification in the official Gazette, or the publication of a description of the design, during the period of the holding of the exhibition, or the exhibition of the design or the article or the publication of a description of the design by any person elsewhere during or after the period of the holding, of the exhibition, without the privity of consent of the proprietor, shall not prevent the design from being registered or invalidate the registration thereof. -

Provided that -

(a) the exhibitor exhibiting the design or article, or publishing a description of the design, gives to the Controller previous notice in the prescribed form; and

(b) the application for registration is made within six months from the date of first exhibiting the design or article or publishing a description of the design.

24B - In sub section (1) of section 50 of the said Act,-

(a) After clause (a) the following clause shall be inserted namely -

"(aa) to import for the purpose of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof; or";

(b) in sub clause (b), after the words "applied to any article" the words "in any class of goods in which the design is registered" shall be inserted.

24C - After section 55 of the said Act the following section shall be inserted, namely -

"55A. A person making a request to the Controller in the prescribed manner as respects any patent specified in the request or as respects any application for a patent so specified, for information to be furnished to him by the Controller or any such matters as may be prescribed affecting that patent or application, shall be entitled, subject to the payment of the prescribed fee to have information supplied to him accordingly.

After clause 27 we recommend the addition of another clause as follows: -

27A. In section 62 of the said Act, the word "and" in the first three places where it occurs, shall be

omitted, and for the words "compelling the production of documents and awarding costs" the words "compelling the discovery and production of documents, issuing commissions for the examining of witnesses and awarding costs and such award shall be executable in any court having jurisdiction as if it were a decree of that court" shall be substituted.

After clause 29 we recommend the addition of two other clauses as follows:-

29A. After the heading "Evidence etc." and before section 68 of the said Act, the following section shall be inserted, namely:-

"67A. Subject to any rules made under section 73 in any proceeding under this Act before the Controller, the evidence shall be given by affidavit, in the absence of directions by the Controller to the contrary; but in any case in which the Controller thinks it right so to do he may take evidence VIVA VOCE in lieu of or in addition to evidence by affidavit or may allow any party to be cross examined on the contents of his affidavit."

29B. After section 68 of the said Act, the following section shall be inserted, namely:-

"68A. Printed or written copies or extracts, purporting to be certified by the Controller and sealed with the seal of the Patent Office, of or from patents, specifications and other documents in the Patent Office and of or from registers and other books kept there, shall be admitted in evidence in all courts in Mysore, and in all proceedings without further proof or production of the originals:

Provided that a court may if it has reason to doubt the accuracy or authenticity of the copies tendered in evidence, require the production of the originals or such further proofs as it considers necessary."

Clause 31, We recommend that sub-clause (a) may be recast as follows:-

(a) in sub-section (1) for the words "shall be entitled to a patent for his invention or to registration of his design under this Act, in priority to other applicants; and the patent or registration shall have the words "or his legal representative or assignee shall, either alone or jointly with any other person be entitled to claim that the patent that may be granted to him under this Act, for the said invention or the registration of the said design under this Act, shall be in priority to other applicants and shall have" shall be substituted.

In the Schedule proposed to be substituted for the present one, we recommend that the words "Before the expiration of", where they occur in the penultimate entry, the words "In respect of" shall be substituted.

As the Bill has been materially altered we recommend its republication.

Venkatramaiya

Tels.—"INDUSCOM." 128

DEPARTMENT OF INDUSTRIES AND COMMERCE.

Mr. M. S. RAMCHENDRA RAO, B.A.,
Director.

OFFICE OF THE DIRECTOR,

Bangalore, dated the 16th May 1939.

D.O. No. A1 / 38.39/Enc1.

16-5

Dear Sir,

I am returning herewith approved the copy of the report of the Select Committee on the Mysore Patents and Designs (amendment) Bill, sent with your letter No.P.5963-7 dated 12th May 39.

PATENTS AND DESIGNS (amendment) BILL.

REPORT OF THE SELECT COMMITTEE

We the members of the Select Committee to which the Bill to amend the Patents and Designs Act, 1928 was referred have considered the several clauses of the Bill and have now the honour to submit the following report:-

We have considered the Indian Patents Act, XI of 1930 amending the law relating to the protection of inventions and designs and we have recommended the addition in our Bill of similar provisions wherever found necessary.

We recommend that the preamble may be recast as follows:-

"Whereas it is expedient further to amend the law relating to the protection of patents and designs, it is hereby enacted as follows:-"

Clause 2. -- In clause 3 sub-clause (a) after (i) we recommend the addition of the following as (ia):-

"(ia) in clause (c) after the words "the title" the words "or the specification" shall be inserted;

and in clause (ii) for clause (f) we recommend that the following clauses be inserted, namely -

"(f) the specification relates to more than one invention

or

(g) in the case of an application claiming priority under section 78 the specification describes and claims an invention substantially larger than or substantially different from the invention disclosed in the specification filed with the application made outside by or by virtue of which priority is claimed,

or

(h) in the case of an application for a patent of addition under section 16A, the invention claimed in the complete specification is not an improvement or modification of that described and claimed in the original specification."

We also recommend that the following clauses may be added as (b), (c), and (d), the existing sub-clause (b) being renumbered as (a)

(b) after sub-section (1) the following sub-section shall be inserted, namely -

"(IA) If the Controller considers, at any time before the acceptance of an application, that the invention claimed therein has been wholly or in part claimed in a specification published on or after the date which the patent applied for would bear if granted, appertaining to an application for a patent which if granted will be of prior date to the patent applied for, he may require -- that the applicant's specification be amended by the

insertion of a reference to such other specification, by way of notice to the public";

(c) in sub section (2) after the word "amendment" the words or the insertion of a reference " shall be inserted;

(d) in sub section (4) for the words " become void " the words " be deemed to have been refused " shall be substituted.

I recommend that the proviso to sub section (4) sought to be substituted by the renumbered sub clause (e) may be recast as follows:-

" provided that where, before or within three months after the expiration of the said period of twelve months a request is made to the Controller for an extension of time, the application shall on payment of the prescribed fee be continued for any period so requested not exceeding in all three months from the expiration of the said period of twelve months "

Clause 8 - I recommend that sub-clause (b) (i) of this clause may be recast as follows:-

(i) in clause (b) of the proviso, the words " or, by a reference under section 8 " shall be omitted, and after the word "patent" where it occurs for the first time, the words " or by any proceedings taken for obtaining a direction of the Controller under the provisions of sub-section (1A)" shall be substituted.

Clause 9 - I recommend that sub section (1-A) sought to be added to section 14 by sub clause (b) may be recast as follows:-

" (1B) Where any party to a contract with the patentee or any other person entered into before the first day of - - - - - 193 is subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction may, on application made in this behalf, determine in what manner and by which parties such loss or liability shall be borne. "

I also recommend that the proviso to sub section (2) proposed to be substituted by sub clause (c) may be recast as follows:-

" Provided that where the patentee, before or within three months after the expiration of the time for payment, applies to the Controller for an extension of time, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived as the case may be, for any period so applied for not exceeding in all three months from the expiration of the time for payment."

Clause 10 - I recommend that sub clause (c) may be recast as follows:-

" (c) for sub sections 5 and 6 the following sub sections shall be substituted, namely -

(5) The Government or the High Court to which a petition is referred shall in considering the petition have regard to the nature and merits of the invention in relation to the public, to the profits made on the patent and to all the circumstances of

the case.
(C) If it appears to the Government or to the High Court when the petition is referred to it, that the patent has not been sufficiently remunerative, the Government or the High Court, as the ~~xxyx~~ case may be, may by order extend the term of the patent for a further term not exceeding five or in exceptional cases ten years or may order the grant of a new patent for such term not exceeding ten years as may be specified in the order and subject to any restrictions, conditions and provisions which the Government or the High Court, as the case may be, may think fit."

Clause 15. - We recommend that in sub-section (6) of the (proposed) section 21 the last three words "relating to exemption" may be omitted.

Clause 19. - We recommend that clause 19 may be recast as follows:-

For sub-section (1) of section 26 of the said Act, the following sub-section shall be substituted, namely:-
"(1) Revocation of a patent in whole or in part may be obtained on petition to or on a counter claim in a suit for infringement before the High Court on all or any of the following grounds, namely:-

(a) that the invention was not the subject of a valid prior grant of a patent in Mysore;
(b) that the true and first inventor or his legal representative or assignee was not the applicant or one of the applicants for the patent;
(c) that the patent was obtained in fraud of the rights of the person under or through whom he claims;
(d) that the invention was not, at the date of the patent a manufacture or improvement;
(e) that the invention ~~xxx xxky xx the xxxxxxx of the xxxxxxx xxx~~ does not involve any inventive step having any regard to what was known or used prior to the date of the patent;
(f) that the invention is of no utility;
(g) that the specification does not sufficiently and fairly describe ~~the~~ ascertain the nature of the invention and the manner in which the invention is to be performed;
(h) that the specification does not sufficiently and clearly ascertain the scope of the invention claimed;
(i) that the patent was obtained on a false suggestion or representation;
(j) that the primary or intended use or exercise of the invention is contrary to law;
(k) that the patentee has contravened, or has not complied with, the conditions contained in the patent;
(l) that the specification does not disclose the best method of performance of the invention known to the applicant for the patent at the time when the specification was left at the patent office;
(m) that prior to the date of the patent, the patentee or other persons (not being authorities administering any department of the service of His Highness the Maharaja, or the agents or contractors of, or any other persons authorised in that behalf by the Government) secretly worked the invention on a commercial scale (and not merely by way of reasonable trial or experiment) in Mysore, and thereby made direct or indirect profits in excess of such amount as the Court may in consideration of all the

applying for the revocation or of any person

circum-

stances of the case deem reasonable:
Provided that this sub-section shall have effect in relation to the ground of revocation specified -
(i) in clause (b), subject to the provisions of section 75, or
(ii) in clause (d), subject to the provisions of sub-section (1) of section 13, sub-section (2) of section 21, section 37 and section 39."

After clause 19 we recommend the addition of another clause as follows:-

19A.(a) To sub-section 1 of section 29 of the said Act, the following proviso shall be added, namely-
"Provided that where a counter claim for revocation of the patent is made by the defendant, the suit along with the counter claim shall be transferred to the High Court for decision."
(b) In sub-section (2) of section 29 of the said Act, for the words "this Act" the word and figure "section 26" shall be substituted.

After clause 22 we recommend the addition of two other clauses as follows:-

22A- For section 37 of the said Act the following section shall be substituted, namely:-
"37. The public use or knowledge of an invention in any country before the date of the application for a patent thereon shall not invalidate the patent granted thereon if the knowledge has been obtained surreptitiously or in fraud of the true and first inventor or his legal representative or assignee or has been communicated to the public in fraud of such inventor or his legal representative or assign or in breach of confidence: Provided that such inventor or his legal representative or assign has not acquiesced in the public use of his invention, and that he applies for a patent within six months after the commencement of such use."

22B-for section 39 of the said Act the following section shall be substituted, namely:-
"39. The exhibition of an invention at an industrial or other exhibition to which the provisions of this section have been extended by the Government by notification in the official Gazette or the publication of any description of the invention during the period of the holding of the exhibition or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention or the publication of any description thereof, during or after the period of the holding of the exhibition, by any person elsewhere without the privity or consent of the inventor or the reading of a paper by an inventor before a learned society, or the publication of that paper in the society's transactions shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention, or the validity of any patent granted on the application;
Provided that-
(a) the exhibitor exhibiting the invention or the inventor reading the paper or authorising the publication thereof as the case may be, gives to the Controller previous notice in the prescribed form; and
(b) the application for a patent is made before or within six months from the date of first exhibiting the in-

invention or of the reading of the paper, as the case may be, or when it has not been so read, of the date of publication.

After clause 23 we recommend the addition of another clause as follows : -

23A - In sub sections (2) and (3) of section 44 of the said Act, the words "within the prescribed time" shall be omitted.

We recommend the addition of three other clauses after clause 24 as follows:-

24A - For section 49 of the said Act, the following section shall be substituted, namely: -

"49 The exhibition of a design, or of any article to which a design is applied, at an industrial or other exhibition to which the provisions of this section have been extended by the Government by notification in the official Gazette, or the publication of a description of the design, during the period of the holding of the exhibition, or the exhibition of the design or the article or the publication of a description of the design by any person elsewhere during or after the period of the holding, of the exhibition, without the privity or consent of the proprietor, shall not prevent the design from being registered or invalidate the registration thereof. -

Provided that -

(a) the exhibitor exhibiting the design or article, or publishing a description of the design, gives to the Controller previous notice in the prescribed form; and

(b) the application for registration is made within six months from the date of first exhibiting the design or article or publishing a description of the design.

24B - In sub section (1) of section 50 of the said Act,-

(a) after clause (a) the following clause shall be inserted namely:

"(aa) to import for the purpose of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof; or";

(b) in sub clause (c), after the words "applied to any article" the words "in any class of goods in which the design is registered" shall be inserted.

24C - After section 50 of the said Act the following section shall be inserted, namely -

"50A. A person making a request to the Controller in the prescribed manner as respects any xxxxxxxxxxxxxxxxx patent specified in the request or as respects any application for a patent so specified, for information to be furnished to him by the Controller or any such matters as may be prescribed affecting that patent or application, shall be entitled, subject to the payment of the prescribed fee to have information supplied to him accordingly."

After clause 27 we recommend the addition of another clause as follows: -

27A. In section 62 of the said Act, the word "and" in the first three places where it occurs shall be

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omitted, and for the words "compelling the production of documents and awarding costs" the words "compelling the discovery and production of documents, issuing commissions for the examining of witnesses and awarding costs and such award shall be executable in any court having jurisdiction as if it were a decree of that court" shall be substituted.

After clause 29 we recommend the addition of two other clauses as follows:-

29A. After the heading "Evidence etc." and before section 68 of the said Act, the following section shall be inserted namely:-

"67A. Subject to any rules made under section 73 in any proceeding under this Act before the Controller, the evidence shall be given by affidavit, in the absence of directions by the Controller to the contrary; but in any case in which the Controller thinks it right so to do he may take evidence VIVA VOCE in lieu of or in addition to evidence by affidavit or may allow any party to be cross examined on the contents of his affidavit."

29B. After section 68 of the said Act, the following section shall be inserted, namely:-

"68A. Printed or written copies or extracts, purporting to be certified by the Controller and sealed with the seal of the Patent Office, of or from patents, specifications and other documents in the Patent Office and of or from registers and other books kept there, shall be admitted in evidence in all courts in Ceylon, and in all proceedings without further proof or production of the originals:

Provided that a court may if it has reason to doubt the accuracy or authenticity of the copies tendered in evidence, require the production of the originals or such further proofs as it considers necessary."

Clause 31. We recommend that sub-clause (a) may be recast as follows:-

(a) in sub-section (1) for the words "shall be entitled to a patent for his invention or to registration of his design under this Act, in priority to other applicants; and the patent or registration shall have the words "or his legal representative or assignee shall, either alone or jointly with any other person be entitled to claim that the patent that may be granted to him under this Act, for the said invention or the registration of the said design under this Act, shall be in priority to other applicants and shall have" shall be substituted.

In the Schedule proposed to be substituted for the present one, we recommend that the words "Before the expiration of", where they occur in the penultimate entry, the words "In respect of" shall be substituted.

As the Bill has been materially altered we recommend its republication.

Approved
M Kanchana
DV 7 Jan 65

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Mr. Mirle N. Lakshminaranappa,
B.A., LL.B.,
Government Advocate.

GOVERNMENT ADVOCATE'S CHAMBERS,
PUBLIC OFFICES,
Bangalore, 16th May 193

D. O. No. 868

Dear Sir,

I am in receipt of your D. O. letter No. P. 5963-7/ dated the 12th May 1939, enclosing a copy of the draft report of the Select Committee on the Mysore Patents and Designs - (amendment)Bill.

2. Instead of the word 'or' in the recommendation made with reference to clause (c) of (i a) in clause 3 of the - Bill, the word 'of' may have to be substituted, so that the clause will read as follows:-

"5. (1) (c) The title of specification does not - sufficiently indicate the subject matter of the invention, or".

This will be in conformity with Sec 3-J Act XII of 1939

3. Clause (ii) of (a) with reference to amendment of Section 5 of the Act made in Section 3 of the amending Act XII of 1939 of the Government of India is altogether omitted. I believe the omission is accidental. If so, it may kindly be made good.

4. The word 'assigned' seems to be a mistake in typing for the word 'assign' in clause (b) of Section 26 (1) as proposed to be recast by clause 19 of the Bill typed on page 3 of the Report.

5. The copy of the draft report received with your - letter under reply is herewith returned.

Yours sincerely,

Mirle Lakshminaranappa

A. Sundararaja Rao, Esq., B.A., B.L.,
Under Secretary to Government, Bangalore.

PATENTS AND DESIGNS (amendment) BILL.

REPORT OF THE SELECT COMMITTEE

We the members of the Select Committee to which the Bill to amend the Patents and Designs Act, 1925 was referred have considered the several clauses of the Bill and have now the honour to submit the following report:-

We have considered the British Indian Act XII of 1939 amending the law relating to the Protection of Inventions and Designs and we have recommended the addition in our Bill of similar provisions wherever found necessary.

We recommend that the preamble may be recast as follows:-

"Whereas it is expedient further to amend the Law relating to the protection of patents and designs, it is hereby enacted as follows:-"

Clause 3. -- In clause 3 sub-clause (a) after (i) we recommend the addition of the following as (ia):-

"(ia) in clause (c) after the words "the title" the words "or the specification" shall be inserted;

and in (ii) for clause (f) we recommend that the following clauses be inserted, namely -

" (f) the specification relates to more than one invention

or

(g) in the case of an application claiming priority under section 75 the specification describes and claims in invention substantially larger than or substantially different from the invention disclosed in the specification filed with the application made outside Mysore by virtue of which priority is claimed,

or

(h) in the case of an application for a patent of addition under section 15A, the invention described and claimed in the specification is not an improvement or modification of that described and claimed in the original specification."

We also recommend that the following clauses may be added as (b), (c), and (d), the existing sub-clause (b) being renumbered as (e)

(b) after sub-section (1) the following sub-section shall be inserted, namely -

"(IA) If the Controller considers, at any time before the acceptance of an application, that the invention claimed therein has been wholly or in part claimed in a specification published on or after the date which the patent applied for would bear if granted, appertaining to an application for a patent which if granted will be of prior date to the patent applied for, he may require -- that the applicant's specification be amended by the

PATENTS AND DESIGNS (amendment) BILL.

REPORT OF THE SELECT COMMITTEE

We the members of the Select Committee to which the Bill to amend the Patents and Designs Act, 1925 was referred have considered the several clauses of the Bill and have now the honour to submit the following report:-

We have considered the British Indian Act XII of 1939 amending the law relating to the Protection of Inventions and Designs and we have recommended the addition in our Bill of similar provisions were ever found necessary.

We recommend that the preamble may be recast as follows:-

"Whereas it is expedient further to amend the Law relating to the protection of patents and designs, it is hereby enacted as follows:-"

Clause 3. -- In clause 3 sub-clause (a) after (i) we recommend the addition of the following as (ia)

"(ia) in clause (c) after the words "the title" the words "or the specification" shall be inserted;

and in sub (ii) for clause (f) we recommend that the following clause be inserted, namely -

(f) the specification relates to more than one invention

or

(g) in the case of an application claiming priority under section 78 the specification describes and claims in invention substantially larger than or substantially different from the invention disclosed in the specification filed with the application made outside My more by virtue of which priority is claimed;

or

(h) in the case of an application for a patent of addition under section 15A, the invention described and claimed in the specification is not an improvement or modification of that described and claimed in the original specification."

We also recommend that the following clauses may be added as (b) (c), and (d), the existing sub-clause (b) being renumbered as (e)

(b) after sub-section (1) the following sub-section shall be inserted, namely -

"(1A) If the Controller considers, at any time before the acceptance of an application, that the invention claimed therein has been wholly or in part claimed in a specification published on or after the date which the patent applied for would bear if granted, appertaining to an application for a patent which if granted will be of prior date to the patent applied for, he may require -- that the applicant's specification be amended by the

insertion of a reference to such other specification, by way of notice to the public";

(c) in sub section (2) after the word "amendment" the words "or the insertion of a reference " shall be inserted:

(d) in sub section (4) for the words " become void " the words " be deemed to have been refused " shall be substituted.

We recommend that the proviso to sub section (4) sought to be substituted by the renumbered sub clause (e) may be recast as follows:-

" provided that where, before or within three months after th expiration of the said period oftwelve months a request is made to the Controller for an extension of time, the application shall on payment of the prescribed fee be continued for any period so requested not exceeding in all three months from the expiration of th said period of twelve months "

Clause 6 - We recommend that sub-clause (b) (i) of this clause may be recast as follows:-

(i) in Clause (b) of the proviso, the words " or, by a reference under Section 8 " shall be omitted, and after the word "patent where it occurs for the first time, the words " or by any proceedin taken for obtaining a direction of the Controller under the provisions of sub-section (1A)" shall be substituted.

Clause 9 - We recommend that sub section (1-B) sought to be added to section 14 by sub clause (b) may be recast as follows:-

" (1B) where any party to a contract with the patentee or any other person entered into before the first day of - - - - - 193 is subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction may, on application made in this behalf, determine in what manner and by which parties such loss or liability shall be borne. "

We also recommend that the proviso to sub section (2) proposed to be substituted by sub clause (c) may be recast as follows:-

" Provided that where the patentee, before or within three months after the expiration of the time for payment, applies to the Controller for an extension of time, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived as the case may be, for any period so applied for not exceeding in all three months from the expiration of the time for payment."

Clause 10 - We recommend that sub clause (c) may be recast as follows:-

" (c) for sub sections 5 and 6 the following sub sections shall be substituted, namely -

(5) The Government or the High Court to which a petition is referred shall in considering the petition have regard to the nature and merits of the invention in relation to the public, to the profits made on the patent and to all the circumstances of

the case.
(6) If it appears to the Government or to the High Court when the petition is referred to it, that the patent has not been sufficiently remunerative, the Government or the High Court, as the ~~xxxyx~~ case may be, may by order extend the term of the patent for a further term not exceeding five or in exceptional cases ten years or may order the grant of a new patent for such term not exceeding ten years as may be specified in the order and subject to any restriction, conditions and provisions which the Government or the High Court, as the case may be, may think fit".

Clause 15. - We recommend that in sub-section (6) of the (proposed) section 21 the last three words "relating to excise" may be omitted.

Clause 19. - We recommend that clause 19 may be recast as follows:-

For sub-section (1) of section 26 of the said Act, the following sub-section shall be substituted, namely:-
"(1) Revocation of a patent in whole or in part may be obtained on petition to or on a counter claim in a suit for infringement before the High Court on all or any of the following grounds, namely:-

(a) that the invention has been the subject of a valid prior grant of a patent in Mysore;
(b) that the true and first inventor or his legal representative or asigned was not the applicant or one of the applicants for the patent;
(c) that the patent was obtained in fraud of the rights of the person under or through whom he claims;
(d) that the invention was not, at the date of the patent a manner of new manufacture or improvement;
(e) that the invention ~~was new at the date of the patent~~ does not involve any inventive step having any regard to what was known or used prior to the date of the patent;
(f) that the invention is of no utility;
(g) that the specification does not sufficiently and fairly describe and ascertain the nature of the invention and the manner in which the invention is to be performed;
(h) that the specification does not sufficiently and clearly ascertain the scope of the invention claimed;
(i) that the patent was obtained on a false suggestion or representation;
(j) that the primary or intended use or exercise of the invention is contrary to law;
(k) that the patentee has contrevened, or has not complied with, the conditions contained in the patent;
(l) that the specification does not disclose the best method of performance of the invention known to the applicant for the patent at the time when the specification was left at the patent office;
(m) that prior to the date of the patent, the patentee or other persons (not being authorities administering any department of the service of His Highness the Maharaja, or the agents or contractors of, or any other persons authorised in that behalf by the Government) secretly worked the invention on a commercial scale (and not merely by way of reasonable trial or experiment) in Mysore, and thereby made direct or indirect profits in excess of such amount as the Court may in consideration of all the

circum-

stances of the case deem reasonable:

Provided that this sub-section shall have effect in relation to the ground of revocation specified -

(i) in clause (b), subject to the provisions of section 75, or

(ii) in clause (d), subject to the provisions of sub-section (1) of section 13, sub-section (2) of section 21, section 37 and section 39."

After clause 19 we recommend the addition of another clause as follows:-

19A.(a) To sub-section 1 of section 29 of the said Act, the following proviso shall be added, namely-

"Provided that where a counter claim for revocation of the patent is made by the defendant, the suit along with the counter claim shall be transferred to the High Court for decision."

(b) In sub-section (2) of section 29 of the said Act, for the words "this Act" the word and figure "section 26" shall be substituted.

After clause 22 we recommend the addition of two other clauses as follows:-

22A- For Section 37 of the said Act the following section shall be substituted, namely:-

"37, The public use or knowledge of an invention in Mysore before the date of the application for a patent thereon shall not invalidate the patent granted thereon if the knowledge has been obtained surreptitiously or in fraud of the true and first inventor or his legal representative or assignee or has been communicated to the public in fraud of such inventor or his legal representative or assign or in breach of confidence: Provided that such inventor or his legal representative or assign has not acquiesced in the public use of his invention, and that he applies for a patent within six months after the commencement of such use."

22B-for section 39 of the said Act the following section shall be substituted, namely:-

"39. The exhibition of an invention at an industrial or other exhibition to which the provisions of this section have been extended by the Government by notification in the official Gazette or the publication of any description of the invention during the period of the holding of the exhibition or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention or the publication of any description thereof, during or after the period of the holding of the exhibition, by any person elsewhere without the privity or consent of the inventor or the reading of a paper by an inventor before a learned society, or the publication of that paper in the society's transactions shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention, or the validity of any patent granted on the application:

Provided that-

(a) the exhibitor exhibiting the invention or the inventor reading the paper or authorising the publication thereof as the case may be, gives to the Controller previous notice in the prescribed form; and

(b) the application for a patent is made before or within six months from the date of first exhibiting the in-

invention or of the reading of the paper, as the case may be, or when it has not been so read, of the said publication."

After clause 23 we recommend the addition of another clause as follows : -

23A - In Sub Sections (2) and (3) of Section 44 of the said Act, the words "within the prescribed time" shall be omitted.

We recommend the addition of three other clauses after clause 24 as follows:-

24A - For section 49 of the said Act, the following section shall be substituted, namely: -

" 49 The exhibition of a design, or of any article to which a design is applied, at an industrial or other exhibition to which the provisions of this section have been extended by the Government by notification in the official Gazette or the publication of a description of the design, during the period of the holding of the exhibition, or the exhibition of the design or the article or the publication of a description of the design by any person elsewhere during or after the period of the holding, of the exhibition, without the privity of consent of the proprietor, shall not prevent the design from being registered or invalidate the registration thereof. -

Provided that -

(a) the exhibitor exhibiting the design or article, or publishing a description of the design, gives to the Controller previous notice in the prescribed form; and

(b) the application for registration is made within six months from the date of first exhibiting the design or article or publishing a description of the design.

24B - In Sub Section (1) of section 50 of the said Act,-

(a) After clause (a) the following clause shall be inserted namel

"(aa) to import for the purpose of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof; or";

(b) in sub clause (b), after the words "applied to any article" the words "in any class of goods in which the design is registered" shall be inserted.

24C - After section 56 of the said Act the following section shall be inserted, namely -

"56A. A person making a request to the Controller in the prescribe manner as respects any ~~patxxxxxpatxxxxdesign~~ patent specified in the request or as respects any application for a patent so specified, for information to be furnished to him by the Controller or any such matters as may be prescribed affecting that patent or application, shall be entitled, subject to the payment of the prescribed fee to have information supplied to him accordingly."

After clause 27 we recommend the addition of another clause as follows: -

27A. In section 62 of the said Act, the word "and" in the first threeplaces where it occurs, shall be

omitted, and for the words "compelling the production of documents and awarding costs" the words "compelling the discovery and production of documents, issuing commissions for the examining of witnesses and awarding costs and such award shall be executable in any court having jurisdiction as if it were a decree of that court" shall be substituted.

After clause 29 we recommend the addition of two other clauses as follows:-

29A. After the heading "Evidence etc." and before section 68 of the said Act, the following section shall be inserted, namely:-

"67A. Subject to any rules made under section 73 in any proceeding under this Act before the Controller, the evidence shall be given by affidavit, in the absence of directions by the Controller to the contrary; but in any case in which the Controller thinks it right so to do he may take evidence VIVA VOCE in lieu of or in addition to evidence by affidavit or may allow any party to be cross examined on the contents of his affidavit."

29B. After section 68 of the said Act, the following section shall be inserted, namely:-

"68A. Printed or written copies or extracts, purporting to be certified by the Controller and sealed with the seal of the Patent Office, of or from patents, specifications and other documents in the Patent Office and of or from registers and other books kep there, shall be admitted in evidence in all courts in Mysore, and in all proceedings without further proof or production of the originals:

Provided that a court may if it has reason to doubt the accuracy or authenticity of the copies tendered in evidence, require the production of the originals or such further proofs as it considers necessary."

Clause 31, We recommend that sub-clause (a) may be recast as follows:-

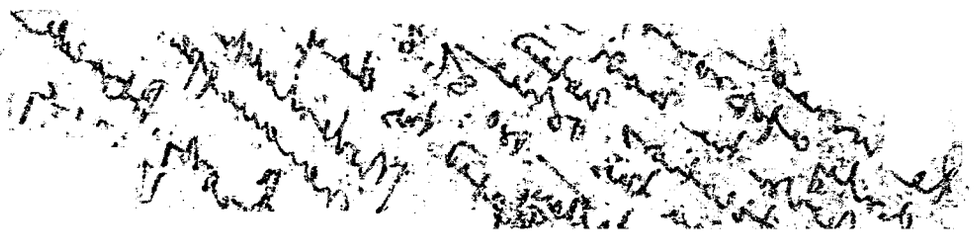
(a) in sub-section (1) for the words "shall be entitled to a patent for his invention or to registration of his design under this Act, in priority to other applicants; and the patent or registration shall have the words "or his legal representative or assignee shall, either alone or jointly with any other person be entitled to claim that the patent that may be granted to him under this Act, for the said inventi or the registration of the said design under this Act, shall be in priority to other applicants and shall have" shall be substituted.

In the Schedule proposed to be substituted for the present one, we recommend that the words "Before the expiration of", where they occur in the penultimate entry, the words "In respect of" shall be substituted.

As the Bill has been materially altered we recommend its republication.

Returned duly approved with the modifications noted in this office No. 868 dated this day.

Mudenkatte
Secretary, Advocate
16.5.59



142

PROCEEDINGS OF THE GOVERNMENT OF HIS HIGHNESS

THE MAHARAJA OF MYSORE.

O R D E R No. P 208 Legs 6-39-1

Dated Bangalore the 19th July 1939.

Ordered that the accompanying Act further to amend the law relating to the Protection of Patents and Designs which received the assent of His Highness the Maharaja, on the Third day of July 1939 be published as Act No.XV of 1939, in the Mysore Gazette for general information.

Secretary to Government
Law Department.

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies ~~of~~ as per Standing Orders. 4 clean proofs should be sent to this office for approval by 2 P.M. tomorrow.

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DRAFT.

SUBJECT.....

.....

.....

Section. Legi
File No. 6- 39
Serial No. /

Proceedings of the Government of H. H. the Maharaja of Mysore.

Diary No. of letter replied to.....

Order No. P208

GENERAL AND REVENUE SECRETARIAT,

( )

, *the*.....191 .

Ordered that the accompanying.....
Act further to amend the law
relating to the protection of Patents and Designs
.....
which received the assent of His Highness the Maharaja, on the third day of June 1939, be published as ~~Regulation~~ Act No. XV of 1939, in the *Mysore Gazette* for general information.

Date of issue..... 12/7/39

Signed by..... Dy. C. S. A.

May this be—

(i) Printed?

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English part?

(iv) Translated?

(v) Placed at the disposal of the Press?

(vi) Published in the "Gazette" Kannada part?

G
Secretary to Government.
Law Department

To

The Compiler, *Mysore Gazette*, for publication in Part IV of the Gazette, in English and Kannada and for supply of spare copies standing ad
.....spare copies in English, and
.....spare copies in Kannada to this office, and.....spare copies in English and.....spare copies in Kannada to the Curator, Government Central Book Depot, Bangalore. Proofs should be sent to this office for approval before publication.

Copy Standing Instn.

NOTIFICATION.

Order No. P. 208—*Legis.* 6-39-1, *dated Bangalore the 12th July* 1939.

Ordered that the accompanying Act further to amend the law relating to the Protection of Patents and Designs which received the assent of His Highness the Maharaja, on the third day of July 1939 be published as Act XV of 1939, in the *Mysore Gazette* for general information.

C. SUBRAHMANYA AIYAR,
Secretary to Government,
Law Department.

ACT XV OF 1939.

Bill to amend the Patents and Designs Act, 1925.

(*Received the assent of His Highness the Maharaja on the third day of July 1939.*)

Whereas it is expedient further to amend the law relating to the Protection of Patents and Designs; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Mysore Patents and Designs (amendment) Act, 1939.

Amendment of section 2, Act III of 1925.

2. In section 2 of the Mysore Patents and Designs Act, 1925 hereinafter referred to as the said Act,—

(*a*) for clause (4), the following clause shall be inserted, namely:—

"(4) 'design' means only the features of shape, configuration, pattern or ornament, applied to any article, by any industrial process or means whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are solely judged by the eye; but does not include any mode or principle of con-

struction or anything which is in substance a mere mechanical device and does not include any trade mark as defined in section 478 or property mark as defined in section 479 of the Indian Penal Code as in force in Mysore."

(*b*) for clause (10) the following clause shall be substituted, namely :—

"(10) 'patentee' means any person for the time being entered on the register of patents kept under this Act as the grantee or proprietor of the patent,"

(*c*) in clause (12), after the words "proprietor of a new" the word "or" shall be substituted for the word "and".

Amendment of section 5, Act III of 1925.

3. In section 5 of the said Act,—

(*a*) in sub-section (1),—

(i) in clause (*b*) the words "or relate to more than one invention" shall be omitted :

(*ia*) in clause (*c*) after the words "the title" the words "of the specification" shall be inserted:

(*ib*) in clause (*e*) after the words "not a" the words "manner of" shall be inserted.

(ii) the following clause shall be inserted after clause (*e*), namely :—

"(*f*) the specification relates to more than one invention, or

(*g*) in the case of an application claiming priority undey section 75, the specification describes and claims an invention substantially larger than or substantially different from the invention disclosed in the specification filed with the application made outside Mysore by virtue of which priority is claimed, or

(*h*) in the case of an application for a patent of addition under section 15A, the invention described and claimed in the specification is not an improvement or modification of that described and claimed in the original specification,"; and

(iii) at the end of section 5 (1), the following proviso shall be inserted :—

"Provided that, when a specification comprises more than one invention, the application shall, if the Controller or the applicant, so requires, be restricted to

one invention and the other inventions may be made the subject matter of fresh applications; and any such fresh application shall be proceeded with as a substantive application, but the Controller may, in his discretion, direct that any such fresh application made before the acceptance of the original application or such later date as he may fix, and the fresh application shall be deemed, for the purposes of this Act, to have been made on the date which it bears in accordance with such direction"; and

(*b*) after sub-section (1) the following sub-section shall be inserted, namely:—

"(1A) If the Comptroller considers, at any time before the acceptance of an application, that the invention claimed therein has been wholly or in part claimed in a specification pubiished on or after the date which the patent applied for would bear if granted, appertaining to an application for a patent which if granted, will be of prior date to the patent applied for, he may require that the applicant's specification be amended by the insertion of a reference to such other spccification, by way of notice to the public."

(*c*) in sub-section (2) after the word "amendment" the words "or the insertion of a reference" shall be inserted.

(*d*) in sub-section (4) for the words "become void", the words "be deemed to have been refused shall be substituted.

(*e*) in sub-section (4), the following proviso shall be substituted for the existing proviso, namely:—

"Provided that where, before or within three months after the expiration of the said period of twelve months a request is made to the Controller for an extension of time, the application shall on payment of the prescribed fee be continued for any period so requested not

exceeding in all three months from the expiration of the said period of twelve months."

4. Section 8 shall be omitted.

Omission of Section 8, Act III of 1925.

5. In section 9 of the said Act, in sub-sections (1) and (2) for the words "three months" the words "four months" shall be substituted.

Amendment of section 9, Act III of 1925.

6. In section 10 of the said Act:

Amendment of section 10, Act III of 1925.

(*a*) after sub-section (1) the following sub-section shall be inserted, namely:—

"(1-A) Notwithstanding anything contained in sub-section (1) where:—

(*a*) an applicant has agreed in writing that on the grant to him of a patent he will assign it to another party or to a joint applicant and refuses to proceed with the application, or

(*b*) disputes arise between joint applicants as to proceeding with an application,

the Controller, if he is satisfied of the existence of such agreement, or in any other case, that any joint applicant or applicants ought to be allowed to proceed alone, may direct that such other party or joint applicant or applicants may proceed with the application accordingly and may grant a patent to him or them as the case may be:

Provided that—

(i) the Controller shall not give any such direction until every party interested has had an opportunity of being heard by him, and

(ii) an appeal from any such direction shall lie to the Government.

(*b*) in sub-section (2)—

(i) in clause (*b*) of the proviso, the words "or, by a reference under section 8" shall be omitted, and after the word "patent" where it occurs for the first time, the words "or by any proceedings taken for obtaining a direction of the Controller under the provisions of sub-section (1-A)" shall be substituted.

(ii) for clause (d) of the proviso, the following clause shall be substituted, namely:—

"(*d*) where for any reason a patent cannot be sealed within the period allowed by any of the foregoing provisions of this section, the period may, on payment of the

prescribed fee and on compliance with the prescribed conditions, be extended to the extent applied for but not exceeding three months."

Amendment of section 11, Act III of 1925.

7. In the proviso to section 11 of the said Act, for the words "the publication of the specification" the words "the advertisement of the acceptance of the application" shall be substituted.

Amendment of section 13, Act III of 1925.

8. In section 13 of the said Act, for sub-section (2), the following sub-section shall be substituted, namely—

"(2) where a patent has been revoked by the High Court on the ground that it has been obtained in fraud of the true and first inventor, or where the grant of a patent has been refused by the Controller under section 9 on the ground stated in clause (a) of sub-section (1) of that section, the Controller may, on the application of the true inventor or his legal representative or assignee made in accordance with the provisions of this Act, grant to him a patent for the whole or any part of the invention, and the patent so granted shall bear the same date as the patent so revoked, or in the case of a patent the grant of which has been refused, the same date as would have been borne by the patent if it had been granted:

Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted."

Amendment of section 14, Act III of 1925.

9. In section 14 of the said Act,—

(*a*) in sub-section (1) for the words "fourteen years" the words "sixteen years" shall be substituted;

(*b*) after sub-section (1) the following sub-sections shall be inserted, namely,—

"(1-A) Any patent, the original term of which had not expired on or before the first day of .....193 , shall have effect as if the term mentioned therein was sixteen years instead of fourteen years, and any license existing at that date which has been granted for the term of the patent shall be treated as having been granted for the term as so extended if the licensee so desires.

"1-B Where any party to a contract with the patentee or any other person entered into before the first day of 193 , is subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction may on application made in this behalf determine in what manner and by which parties such loss or liability shall be borne."

(*c*) for the proviso in sub-section (2), the following proviso shall be substituted, namely :—

"Provided that where, the patentee before or within three months after the expiration of the time for payment applies to the Controller for an extension of time the, patent shall, on payment of such additional fee as may be prescribed, be continued or revived, as the case may be, for any period so applied for not exceeding in all three months from the expiration of the time for payment."

Amendment of section 15, Act III of 1935.

10. In Section 15 of the said Act—

(*a*) in sub-section (1)—

(i) the words "after advertising in the prescribed manner his intention to do so" shall be omitted, and

(ii) after the words "prescribed fee" the words "and must be advertised by the patentee within the prescribed time and in the prescribed manner" shall be added;

(*b*) in sub-section (2), after the word "may" and before the words "give notice" the words "within such time as may be prescribed and on payment of the prescribed fee" shall be inserted;

(*c*) for sub-sections (5) and (6) the following sub-sections shall be substituted, namely—

"(5) The Government or the High Court to which a petition is referred shall in considering the petition have

regard to the nature and merits of the invention in relation to the public, to the profits made on the patent and to all the circumstances of the case.

(6) If it appears to the Government or to the High Court when the petition is referred to it, that the patent has not been sufficiently remunerative, the Government or the High Court as the case may be, may by order extend the term of the patent for a further term not exceeding five or in exceptional cases ten years or may order the grant of a new patent for such term not exceeding ten years as may be specified in the order and subject to any restriction, conditions and provisions which the Government or the High Court as the case may be, may think fit."

Insertion of new section 15A in Act III of 1925.

11. After Section 15, the following section shall be inserted, namely :—

Patents of addition.

"15-A. (1) Where a patent for an invention has been applied for or granted, the applicant or the patentee as the case may be applies for a further patent in respect of any improvement in or modification of the invention, he may in his application for the further patent request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired, and if he does so, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid.

(2) Save as otherwise expressly provided by this Act, a patent of addition shall remain in force as long as the patent for the original invention remains in force, but no longer, and in respect of a patent of addition no fees shall be payable for renewal:

Provided that if the patent for the original invention is revoked, then the patent of addition shall, if the authority by which it is revoked so orders, become an independent patent, and the fees payable, and the dates when they become payable, shall be determined by its date, but its duration shall not exceed the unexpired term of the patent for the original invention.

(3) The grant of patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independent patent."

12. In section 18 of the said Act, after the word "disclaimer" and before the words "in such manner," the words "correction or explanation" shall be inserted. Amendment of section 18, Act III of 1925.

13. In section 19 of the said Act, for the words "before the disclaimer, correction or explanation," the words "before the date of the decision allowing the amendment" shall be substituted. Amendment of section 19, Act III of 1925.

14. In sub-section (4) of section 20 of the said Act, the words beginning with "and, unless" and ending with "affecting a patent" shall be omitted. Amendment of section 20, Act III of 1925.

15. For section 21 of the said Act, the following section shall be substituted, namely :— Substitution of new section for Section 21, Act III of 1925.

"21 (1) Subject to the other provisions of this section, a patent shall have to all intents the like effect as against the Government of Mysore as it has against a subject. Patent to bind the Government.

(2) The officers or authorities administering any department of the service of the Government of Mysore may, by themselves or by such of their agents, contractors or others as may be authorised in writing by them, at any time after the application, and after giving notice to the applicant or patentee, make, use or exercise the invention for the service of the Government on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Government, between such officers or authorities and the applicant or patentee or in default of agreement as may be settled in the manner hereinafter provided. And the terms of any agreement or licence concluded between the applicant or patentee and any person other than such officers or authorities, shall be inoperative as far as concerns the making, use or exercise of the invention for the service of the Government.

(3) Where an invention which is the subject of any patent has, before the date of the patent, been duly recorded in a document by, or tried by or on behalf of, the officers or authorities administering any department of the service of the Government (such invention not having been communicated directly or indirectly by the applicant or patentee) such officers or authorities, or such of their agents, contractors or others, as may be authorised in writing by them, may, after giving notice to the applicant or patentee, make, use or exercise the invention so recorded or tried for the service of the Government, free of any royalty or other payment to the applicant or patentee, notwithstanding the existence of the patent. If

in the opinion of such officers or authorities, the disclosure to the applicant or patentee as the case may be, of the document recording the invention or the evidence of the trial thereof, if required, would be detrimental to the public interest, it may be made confidentially to counsel on behalf of the applicant or patentee, or to any independent expert mutually agreed upon.

(4) In the event of any dispute as to the making, use or exercise of an invention under this section, or the terms therefor, or as to the existence or scope of any record or trial as aforesaid, the matter shall be referred to the High Court for decision, who shall have power to refer the whole matter or any question or issue of fact arising thereon to be tried before a special or official referee or an arbitrator upon such terms as it may direct. The Court, referee or arbitrator, as the case may be, may, with the consent of the parties, take into consideration the validity of the patent for the purposes only of the reference and for the determination of the issues between the applicant or patentee and such officers or authorities. The Court, referee or arbitrator, further, in settling the terms as aforesaid, shall be entitled to take into consideration any benefit or compensation which the applicant or patentee, or any other person interested in the patent, may have received directly or indirectly from the Government or from such officers or authorities in respect of such patent:

Provided that, if the inventor or patentee is a Government servant and the subject matter of the invention is certified by the Government, to be connected with work done in the course of such service, any such dispute shall be settled by the Government after hearing the applicant or patentee and any other person having an interest in the invention or patent.

(5) The right to use an invention for the services of the Government under the provisions of this section, or any provisions for which this section is substituted, shall include and shall be deemed always to have included, the power to sell any articles made in pursuance of such right which are no longer required for the service of the Government.

(6) Nothing in this section shall affect the right of the Government or of any person deriving title directly or indirectly from the Government to sell or use any articles forfeited under any law for the time being in force [relating to excise]."

16. In section 22 of the said Act,— Amendment of section 22, Act III of 1925.

(*a*) in sub-section (1) for the words beginning with "reasonable requirements" and ending with the words "satisfied" the words "the demand for a patented article in Mysore is not being met to an adequate extent and on reasonable terms" shall be substituted;

(*b*) in sub-section (4),—

(i) for the words beginning with "the reasonable requirements" and ending with "not been satisfied," the words "the demand for the patented article in Mysore is not being met to an adequate extent and on reasonable terms" shall be substituted; and

(ii) for the words "the reasonable requirements of the public will not be satisfied" the words "the demand will not be adequately met" shall be substituted;

(*c*) in sub-section (5),—

(i) for the words "the reasonable requirements of the public shall not be deemed to have been satisfied" the words "the demand for a patented article shall not be deemed to have been met to an adequate extent and on reasonable terms" shall be substituted;

(ii) in clause (a) the words beginning with "or the demand" and ending with "reasonably met" shall be omitted; and

(iii) in clause (b) the words "before or after the commencement of this Act" shall be omitted;

(*d*) sub-section (6) shall be omitted.

17. In section 23 of the said Act,—

(*a*) in sub-section (1), for the words "for the revocation of the patent" the words "for relief under this section" shall be substituted; and Amendment of section 23, Act III of 1925.

(*b*) in sub-section (2)—

(i) after the words "an order" and before the word "revoking" the letter and bracket "(a)" shall be inserted; and

(ii) after clause (ii) the following shall be added, namely:—

"(*b*) or ordering the patentee to grant a licence to the applicant which may be a licence exclusive to him or otherwise as the Government may direct."

Insertion of new section 23-A in Act III of 1925.

18. After section 23 of the said Act, the following section shall be inserted, namely :—

Operation of order under section 22 or section 23.

"23-A. An order of the High Court under section 22 or of the Government under section 22 or section 23 directing the grant of any licence shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a licence and executed by the patentee and all other necessary parties."

Amendment of section 26, Act III of 1925.

19. For sub-section (1) of section 26 of the said Act, the following sub-section shall be substituted, namely,—

"(1) Revocation of a patent in whole or in part may be obtained on petition to or on a counter claim in a suit for infringement before the High Court on all or any of the following grounds, namely :—

(*a*) that the invention has been the subject of a valid prior grant of a patent in Mysore ;

(*b*) that the true and first inventor or his legal representative or assign was not the applicant or one of the applicants for the patent ;

(*c*) that the patent was obtained in fraud of the rights of the person applying for the revocation or of any person under or through whom he claims ;

(*d*) that the invention was not, at the date of the patent a manner of new manufacture or improvement ;

(*e*) that the invention does not involve any inventive step having any regard to what was known or used prior to the date of the patent ;

(*f*) that the invention is of no utility ;

(*g*) that the specification does not sufficiently and fairly describe and ascertain the nature of the invention and manner in which the invention is to be performed ;

(*h*) that the specification does not sufficiently and clearly ascertain the scope of the invention claimed ;

(*i*) that the patent was obtained on a false suggestion or representation ;

(*j*) that the primary or intended use or exercise of the invention is contrary to law ;

(*k*) that the patentee has contravened, or has not complied with, the conditions contained in the patent ;

(*l*) that the specification does not disclose the best method of performance of the invention known to the applicant for the patent at the time when the specification was left at the Patent Office;

(*m*) that prior to the date of the patent, the patentee or other persons (not being the authorities administering any department of the service of His Highness the Maharaja, or the agents or contractors of, or any other persons authorised in that behalf by the Government) secretly worked the invention on a commercial scale (and not merely by way of reasonable trial or experiment) in Mysore, and thereby made direct or indirect profits in excess of such amount as the Court may in consideration of all the circumstances of the case deem reasonable:

Provided that this sub-section shall have effect in relation to the ground of revocatien specified—

(i) in clause (*b*), subject to the provisions of section 75, or

(ii) in clause (*d*), subject to the provisions of sub-section (1) of section (13), sub-section (2) of section 21, section 37 and section 39."

19-A. (*a*) To sub-section 1 of section 29 of the said Act, the following proviso shall be added, namely—

"Provided that where a counter claim for revocation of the patent is made by the defendant, the suit along with the counter claim shall be transferred to the High Court for decision."

(*b*) In sub-section (2) of section 29 of the said Act, for the words "this Act" the word and figure "Section 26,' shall be substituted.

Amendment of Section 34, Act III of 1925.

20. In sub-section (1) of section 34 of the said Act, for the words "either of" the word "all" shall be substituted.

Insertion of a new Section 34-A in Act III of 1925.

21. After section 34 of the said Act, the following section shall be inserted, namely:—

Grant of relief in respect of particular claims.

"34A. Notwithstanding anything contained in section 19, if the Court in any action for infringement of a patent finds that any one or more of the claims in the specification in respect of which the infringement is alleged are valid, it may, subject to its discretion as to costs and as to the date from which damages should be reckoned and to such terms as to amendment as it may deem desirable, grant relief in respect of any of such claims which are infringed without regard to the invalidity of any other

claim in the specification. In exercising such discretion the Court may take into consideration the conduct of the parties in inserting such invalid claims in the specification or permitting them to remain there."

Amendment of Section 35, Act II of 1935.

22. In section 35 of the said Act,—

(i) for the words "to be the patentee of an invention" the words "to have an interest in a patent" shall be substituted:

(ii) for the words "any legal rights of the person making such threats" the words "the patent" shall be subtituted, and

(iii) in the proviso, for the words beginning with "if the person" and ending with the words "this patent" the words "if an action for infringement of the patent is commenced and prosecuted with due diligence" shall be substituted.

Substitution of a new section for section 37, Act III of 1925. Public use or knowledge of invention.

22A. For section 37 of the said Act, the following section shall be substituted, namely :—

"37. The public use or knowledge of an invention in Mysore before the date of the application for a patent thereon shall not invalidate the patent granted thereon if the knowledge has been obtained surreptitiously or in fraud of the true and first inventor or his legal representative or assign or has been communicated to the public in fraud of such inventor or his legal representative or assign or in breach of confidence :

Provided that such inventor or his legal representative or assign has not acquiesced in the public use of his invention, and that he applies for a patent within six months after the commencement of such use."

Substitution of a new section for section 39, Act III of 1925. Provisions as to exhibitors and readings before learned societies.

22B. For section 39 of the said Act, the following shall be substituted, namely :—

"39. The exhibition of an invention at an industrial or other exhibition to which the provisions of this section have been extended by the Government by notification in the official Gazette, or the publication of any description of the invention during the period of the holding of the exhibition or the use of the invention for the purpose of the exhibition in the place where the exhibition is held, or the use of the invention or the publication of any description thereof, during or after the period of the holding of the exhibition, by any person elsewhere without the privity or consent of the inventor or the reading of a paper by an inventor before a learned society, or the publi-

cation of that paper in the society's transactions shall not prejudice the right of the inventor to apply for and obtain a patent in respect of the invention, or the validity of any patent granted on the application.

Provided that—

(*a*) the exhibitin exhibitor the invention or the inventor reading the paper or authorising the publication thereof as the case may be, gives to the Controller previous notice in the prescribed form; and

(*b*) the application for a patent is made before or within six months from the date of first exhibiting the invention or of the reading of the paper, as the case may be, or when it has not been so read, of the said publication."

Amendment of Section 41, Act III of 1925.

23. In section 41 of the said Act,

(i) in clause (a) for the word "and" the word "or" shall be substituted,

(ii) after clause (b) the following proviso shall be added, namely,

"Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from previous registration."

Amendment of section 44, Act III of 1925.

23A. In sub-sections (2) and (3) of Section 44 of the said Act, the words "within the prescribed time" shall be omitted.

Insertion of new Sections 48-A and 48-B in Act III of 1925.

24. After Section 48 of the said Act, the following sections shall be inserted, namely:—

Cancellation of registration.

"48A. (1) Any person interested may present a petition for the cancellation of the registration of a design—

(*a*) at any time after the registration of the design to the High Court on any of the following grounds, namely:—

(i) that the design has been previously registered in Mysore; or

(ii) that it has been published in Mysore prior to the date of registration; or

(iii) that the design is not a new or original design; or

(*b*) within one year from the date of the registration, to the Controller on either of the grounds specified in sub-clauses (i) and (ii) of clause (*a*).

(2) An appeal shall lie from any order of the Controller under this Section to the High Court, and the Controller may at any time refer any such petition to the High Court, and the High Court shall decide any petition so referred.

Registration of design to bind the Government.

48B. The provisions of Section 21 shall apply to registered designs as if those provisions were re-enacted herein and in terms made applicable to registered designs."

Substitution of new section for Section 49, Act III of 1925.

24A. For Section 49 of the said Act, the following section shall be substituted, namely :—

Provisions as to Exhibitions.

"49. The exhibition of a design, or of any article to which a design is applied, at an industrial or other exhibition to which the provisions of this section have been extended by the Government by notification in the official Gazette, or the publication of a description of the design, during the period of the holding of the exhibition, or the exhibition of the design or the article or the publication of a description of the design by any person elsewhere during or after the period of the holding of the exhibition without the privity or consent of the proprietor, shall not prevent the design from being registered or invalidate the registration thereof :

Provided that—

(*a*) the exhibitor exhibiting the design or article, or publishing a description of the design, gives to the Controller previous notice in the prescribed form ; and

(*b*) the application for registration is made within six months from the date of first exhibiting the design or article or publishing a description of the design."

Amendment of Section 50, Act III of 1925.

24B. In sub-section (1) of Section 50 of the said Act,

(*a*) after clause (*a*) the following clause shall be inserted namely :—

"(*a*) to import for the purpose of sale, without the consent of the registered proprietor, any article belonging to the class in which the design has been registered, and having applied to it the design or any fraudulent or obvious imitation thereof ; or"

(*b*) in sub-clause (*b*), after the words "applied to any article" the words "in any class of goods in which the design is registered" shall be invested.

24C. After section 56 of the said Act, the following section shall be inserted, namely:— Insertion of new section 56A in Act III of 1925.

"56A. A person making a request to the Controller in the prescribed manner as respects any patent specified in the request or as respects any application for a patent so specified, for information to be furnished to him by the Controller of any such matters as may be prescribed affecting that patent or application, shall be entitled, subject to the payment of the prescribed fee, to have information supplied to him accordingly." Information relating to patents.

25. Clause (*b*) of section 59 of the said Act shall be omitted. Amendment of Section 59, Act III of 1925.

26. For section 60 of the said Act, the following section shall be substituted namely:— Substitution of new section for Section 60, Act III of 1925.

"60. (1) Where a person becomes entitled by assignment, transmission or other operation of law to a patent or to the copyright in a registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, register him as the proprietor of such patent or design. and shall cause an entry to be made in the prescribed manner in the register of the assignment, transmission or other instrument affecting the title. Entry of assignments and transmissions in registers.

(2) Where any person becomes entitled as mortgagee, licensee or otherwise to any interest in a patent or registered design he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be, with particulars of the instrument, if any, creating such interest.

(3) The person registered as the proprietor of a patent or design, shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licences as to, or otherwise deal with, the patent or design and to give effectual receipts for any consideration for any such assignment, licence or dealing:

Provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other moveable property.

(4) Except in the case of an application made under section 61, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-sections (1) and (2) shall not be admitted in evidence in any Court in proof of the title to a patent or to copyright in a design or to any interest therein, unless the Court, for reasons to be recorded in writing, otherwise directs."

Amendment of Section 61, Act III of 1925.

27. In section 61 of the said Act

(*a*) in sub-section (1) for the words "The High Court" the words "The Controller" and for the words "as it may think fit" the words "as he thinks fit" shall be substituted;

(*b*) in sub-section (2) for the word "Court" the word "Controller" shall be substituted;

(*c*) for sub-section (3) the following sub-section shall be substituted, namely:—

"(3) An appeal shall lie to the High Court from any order of the Controller under this section; and the Controller may refer any application under this section to the High Court for decision, and the High Court shall dispose of any application so referred."

and (*d*) after sub-section (4) the following sub-section shall be inserted, namely:—

"(5) Nothing in this section shall be deemed to empower the Controller—

(*a*) to rectify the register of patents, or to decide any question relating to a patent, otherwise than for the purpose of correcting a mistake of fact apparent from a reference either to the patent itself or to some order of a competent authority made under any other provision of this Act, or

(*b*) to make any such order cancelling the registration of a design, as is provided for in section 48 A."

Amendment of section 62, Act III of 1925.

27-A.—In section 62 of the said Act, the word "and" in the first three places where it occurs, shall be omitted, and for the words "compelling the production of documents and awarding costs" the words "compelling the discovery and production of documents, issuing commissions for the examining of witnesses and awarding costs and such award shall be executable in any Court having jurisdiction as if it were a decree of that Court" shall be substituted.

Amendment of Section 66, Act III of 1925.

28. Section 66 of the said Act shall be re-numbered as sub-section (1) of that section and to that sub-section as so re-numbered the following sub-section shall be added, namely:—

"(2) An appeal shall lie to the Government from an order of the Controller under this section."

Amendment of Section 67, Act III of 1925.

29. In sub-sections (1) and (2) of section 67 of the said Act, for the word "two" the word "three" shall be substituted.

Insertion of new section 68A in Act III of 1925.

29A. After the heading "Evidence, etc." and before section 68 of the said Act, the following section shall be inserted, namely:—

Evidence before the Controller.

67A. Subject to any rules made under section 73 in any proceeding under this Act before the Controller, the evidence shall be given by affidavit, in the absence of directions by the Controller to the contrary; but in any case in which the Controller thinks it right so to do he may take evidence VIVA VOCE in lieu of or in addition to evidence by affidavit or may allow any party to be cross-examined on the contents of his affidavit."

Insertion of new section 68A in Act III of 1925.

29-B.—After section 68 of the said Act, the following section shall be inserted, namely:—

Evidence of documents in Patent Office.

'68-A.—Printed or written copies or extracts, purporting to be certified by the Controller and sealed with the seal of the Patent Office, of or from patents, specifications and other documents in the Patent Office, and of or from registers and other books kept there, shall be admitted in evidence in all Courts in Mysore, and in all proceedings without further proof or production of the originals:

Provided that a Court may if it has reason to doubt the accuracy ot authenticity of the copies tendered in evidence, require the production of the originals or such further proofs as it considers necessary.

Insertion of new section 70A in Act III of 1925.

30. After section 70 of the said Act, the following section shall be inserted, namely:—

Security for costs.

"70-A. Where a person giving notice of any opposition under this Act or giving notice to the Court of Appeal from any decision of the Controller under this Act, neither resides nor carries on business in Mysore, the Controller or the Court, as the case may be, may require such person to give security for the payment of all costs incurred and likely to be incurred in the proceedings

or appeal, as the case may be, and, in default of such security being given, may disallow the opposition or dismiss the appeal."

Amendment of Section 75, Act III of 1925.

31. In section 75 of the said Act,—

(*a*) in sub-section (1) for the words "shall be entitled to a patent for his invention or to registration of his design under this Act, in priority to other applicants; and the patent or registration shall have" the words "or his legal representative or assignee shall, either alone or jointly with any other person, be entitled to claim that the patent that may be granted to him under this Act, for the said invention or the registration of the said design under this Act, shall be in priority to other applicants and shall have" shall be substituted.

Substitution of a new schedule for the existing schedule to Act III of 1925.

(*b*) in proviso (*a*) to sub-section (1) for the word "four" the word "six" shall be substituted.

The following schedule shall be substituted for the schedule to the said Act:—

The Schedule.

(See Section 54).

Fees.	Rs.
On application for a patent	10
Before sealing a patent	30
Before the expiration of the 4th year from the date of the patent	50
Before the expiration of the 5th year from the date of the patent	50
Before the expiration of the 6th year from the date of the patent	50
Before the expiration of the 7th year from the date of the patent	50
Before the expiration of the 8th year from the date of the patent	100
Before the expiration of the 9th year from the date of the patent	100
Before the expiration of the 10th year from the date of the patent	100
Before the expiration of the 11th year from the date of the patent	100

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Fees.	Rs.
Before the expiration of the 12th year from the date of the patent	150
Before the expiration of the 13th year from the date of the patent	150
Before the expiration of the 14th year from the date of the patent	150
Before the expiration of the 15th year from the date of the patent	150
Provided that fees for two or more years may be paid in advance.	
On application to extend the term of a patent ...	50
In respect of each year of the extended term of a patent or of a new patent granted under section 15	150
On application for registration of a design ...	3

MIRZA M. ISMAIL,
Dewan.

NOTIFICATION.

No. 990--*L. C., Bangalore, dated the* 22*nd November* 1938.

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill to amend the Patents and Designs Act, 1925, is published for general information with the statement of objects and reasons.

By Order,
A. SUNDARARAJA RAO,
Secretary,
Mysore Legislative Council.

Bill to amend the Patents and Designs Act, 1925.

Whereas it is expedient to amend the Patents and Designs Act, 1925; it is hereby enacted as follows:—

1. This Act may be called the Mysore Patents and Designs (amendment) Act, 193 . Short Title.

2. In section 2 of the Mysore Patents and Designs Act, 1925, hereinafter referred to as the said Act,— Amendment of Section 2, Act III of 1925.

(*a*) for clause (4), the following clause shall be substituted, namely:—

"(4) 'design' means only the features of shape, configuration, pattern or ornament, applied to any article, by any industrial process or means whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device and does not include any trade mark as defined in section 478 or property mark as defined in section 479 of the Indian Penal Code as in force in Mysore."

(*b*) for clause (10) the following clause shall be substituted, namely:—

"(10) 'patentee' means the person for the time being entered on the register of patents kept under this Act as the grantee or proprietor of the patent,"

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(*c*) in clause (12), after the words "proprietor of a new," the word "or" shall be substituted for the word "and."

Amendment of Section 5, Act III of 1925.

3. In section 5 of the said Act,—

(*a*) in sub-section (1),—

(i) in clause (*b*) the words "or relate to more than one invention" shall be omitted:

(ii) the following clause shall be inserted after clause (*e*), namely:—

"or (*f*) the specification relates to more than one invention;" and

(iii) at the end of section 5(1), the following proviso shall be inserted:—

"Provided that, when a specification comprises more than one invention, the application shall, if the controller or the applicant, so requires, be restricted to one invention and the other inventions may be made the subject-matter of fresh applications; and any such fresh application shall be proceeded with as a substantive application, but the controller may, in his discretion, direct that any such fresh application made before the acceptance of the original application, shall bear the date of the original application or such later date as he may fix, and the fresh application shall be deemed, for the purposes of this Act, to have been made on the date which it bears in accordance with such direction"; and

(*b*) in sub-section (4), the following proviso shall be substituted for the existing proviso, namely:—

"Provided that where, before or within three months after the expiration of the said period of twelve months a request is made to the controller for an extension of time by any period not exceeding three months, the application shall, on payment of the prescribed fee, be continued or revived, as the case may be, during but not beyond, the period of extension so requested."

Omission of Section 8, Act III of 1925.

4. Section 8 shall be omitted.

Amendment of Section 9, Act III of 1925.

5. In section 9 of the said Act, in sub-sections (1) and (2), for the words "three months" the words "four months" shall be substituted.

6. In section 10 of the said Act :— Amendment of Section 10, Act III of 1925.

(*a*) after sub-section (1) the following sub-section shall be inserted, namely :—

"(1-A) Notwithstanding anything contained in sub-section (1) where :

(*a*) an applicant has agreed in writing that on the grant to him of a patent he will assign it to another party or to a joint applicant and refuses to proceed with the application, or

(*b*) disputes arise between joint applicants as to proceeding with an application,

the controller, if he is satisfied of the existence of such agreement, or in any other case, that any joint applicant or applicants ought to be allowed to proceed alone, may direct that such other party or joint applicant or applicants may proceed with the application accordingly and may grant a patent to him or them as the case may be :

Provided that—

(i) the controller shall not give any such direction until every party interested has had an opportunity of being heard by him, and

(ii) an appeal from any such direction shall lie to the Government."

(*b*) in sub-section (2).—

(i) in clause (*b*) of the proviso, the words "or, by a reference under section 8" shall be omitted,

(ii) for clause (*d*) of the proviso, the following clause shall be substituted, namely :—

"(*d*) where for any reason a patent cannot be sealed within the period allowed by any of the foregoing provisions of this section, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions, be extended to the extent applied for but not exceeding three months."

7. In the proviso to section 11 of the said Act, for the words "the publication of the specification" the words "the advertisement of the acceptance of the application" shall be substituted. Amendment of Section 11, Act III of 1925.

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Amendment of section 13, Act III of 1925.

8. In section 13 of the said Act, for sub-section (2), the following sub-section shall be substituted, namely:—

"(2) where a patent has been revoked by the High Court on the ground that it has been obtained in fraud of the true and first inventor, or where the grant of a patent has been refused by the controller under section 9 on the ground stated in clause (a) of sub-section (1) of that section, the controller may, on the application of the true inventor or his legal representative or assignee made in accordance with the provisions of this Act, grant to him a patent for the whole or any part of the invention, and the patent so granted shall bear the same date as the patent so revoked or, in the case of a patent the grant of which has been refused, the same date as would have been borne by the patent if it has been granted:

Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted."

Amendment of section 14, Act III of 1925.

9. In section 14 of the said Act,—

(*a*) in sub-section (1), for the words "fourteen years" the words "sixteen years" shall be substituted;

(*b*) after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1-A) Any patent, the original term of which had not expired on or before the first day of..... .....193 , shall have effect as if the term mentioned therein was sixteen years instead of fourteen years, and any licence existing at that date which has been granted for the term of the patent shall be treated as having been granted for the term as so extended if the licensee so desires.

(1-B) Where any party to a contract with the patentee or any other person entered into before the first day of .....193 , is subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction, may determine in what manner and by which parties such loss or liability shall be borne."

(*c*) for the proviso in sub-section (2), the following proviso shall be substituted, namely :—

"Provided that where the patentee, before, or within three months after the expiration of the time for payment, applies to the controller for an extension of time by any period not exceeding three months, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived, as the case may be, during, but not beyond, the period of extension applied for."

Amendment of Section 15, Act III of 1925.

10. In section 15 of the said Act—

(*a*) in sub-section (1),—

(i) the words "after advertising in the prescribed manner his intention to do so" shall be omitted, and

(ii) after the words "prescribed fee," the words "and must be advertised by the patentee within the prescribed time and in the prescribed manner" shall be added;

(*b*) in sub-section (2), after the word "may" and before the words "give notice," the words "within such time as may be prescribed and on payment of the prescribed fee" shall be inserted;

(*c*) in sub-section (6), for the words "seven" and "fourteen," the words "five" and "ten" shall be substituted.

Insertion of new section 15-A in Act III of 1925.

11. After section 15, the following section shall be inserted, namely:—

"15-A. (1) Where a patent for an invention has been applied for or granted, and the applicant or the patentee, as the case may be, applies for a further patent in respect of any improvement in or modification of the invention, he may in his application for the further patent request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired, and if he does so, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid.

(2) Save as otherwise expressly provided by this Act, a patent of addition shall remain in force as long as the patent for the original invention remains in force, but

no longer, and in respect of a patent of addition no fees shall be payable for renewal:

Provided that if the patent for the original invention is revoked, then the patent of addition shall, if the authority by which it is revoked so orders, become an independent patent, and the fees payable, and the dates when they become payable, shall be determined by its date, but its duration shall not exceed the unexpired term of the patent for the original invention;

(3) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independent patent."

Amendment of Section 18, Act III of 1925.

12. In section 18 of the said Act, after the word "disclaimer" and before the words "in such manner," the words "correction or explanation" shall be inserted.

Amendment of Section 19, Act III of 1925.

13. In section 19 of the said Act, for the words "before the disclaimer, correction or explanation," the words "before the date of the decision allowing the amendment" shall be substituted.

Amendment of Section 20, Act III of 1925.

14. In sub-section (4) of section 20 of the said Act, the words beginning with "and, unless" and ending with "affecting a patent" shall be omitted.

Substitution of new section for Section 21, Act III of 1925.

15. For section 21 of the said Act, the following sections shall be substituted, namely:—

"21 (1) subject to the other provisions of this section, a patent shall have to all intents the like effect as against the Government of Mysore as it has against a subject.

(2) The officers or authorities administering any department of the service of the Government of Mysore may, by themselves or by such of their agents, contractors or others as may be authorised in writing by them, at any time after the application, and after giving notice to the applicant or patentee, make, use or exercise the invention for the service of the Government on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Government, between such officers or authorities and the applicant or patentee, or in default of agreement as may be settled in the manner hereinafter provided. And the terms of any agreement or licence concluded between the applicant or patentee and any

person other than such officers or authorities, shall be inoperative as far as concerns the making, use or exercise of the invention for the service of the Government.

(3) Where an invention which is the subject of any patent has, before the date of the patent, been duly recorded in a document by, or tried by or on behalf of, the officers or authorities administering any department of the service of the Government (such invention not having been communicated directly or indirectly by the applicant or patentee) such officers or authorities, or such of their agents, contractors or others, as may be authorised in writing by them, may, after giving notice to the applicant or patentee, make, use or exercise the invention so recorded or tried for the service of the Government, free of any royalty or other payment to the applicant or patentee, notwithstanding the existence of the patent. If, in the opinion of such officers or authorities, the disclosure to the applicant or patentee as the case may be, of the document recording the invention or the evidence of the trial thereof, if required, would be detrimental to the public interest, it may be made confidentially to counsel on behalf of the applicant or patentee, or to any independent expert mutually agreed upon.

(4) In the event of any dispute as to the making, use or exercise of an invention under this section, or the terms therefor, or as to the existence or scope of any record or trial as aforesaid, the matter shall be referred to the High Court for decision, who shall have power to refer the whole matter or any question or issue of fact arising thereon to be tried before a special or official referee or an arbitrator upon such terms as it may direct. The Court, referee or arbitrator, as the case may be, may, with the consent of the parties, take into consideration the validity of the patent for the purposes only of the reference and for the determination of the issues between the applicant or patentee and such officers or authorities. The Court, referee or arbitrator, further, in settling the terms as aforesaid, shall be entitled to take into consideration any benefit or compensation which the applicant or patentee, or any other person interested in the patent, may have received directly or indirectly from the Government or from such officers or authorities in respect of such patent :

Provided that, if the inventor or patentee is a Government servant and the subject matter of the invention is certified by the Government, to be connected with work done in the course of such service, any such dispute shall be settled by the Government after hearing the applicant or patentee and any other person having an interest in the invention or patent.

(5) The right to use an invention for the services of the Government under the provisions of this section, or any provisions for which this section is substituted, shall include and shall be deemed always to have included, the power to sell any articles made in pursuance of such right which are no longer required for the services of the Government.

(6) Nothing in this section shall affect the right of the Government or of any person deriving title directly or indirectly from the Government to sell or use any articles forfeited under any law for the time being in force relating to excise."

Amendment of Section 22, Act III of 1925.

16. In section 22 of the said Act.—

(*a*) in sub-section (1) for the words beginning with "reasonable requirements" and ending with the words "satisfied" the words "the demand for a patented article in Mysore is not being met to an adequate extent and on reasonable terms" shall be snbstituted;

(*b*) in sub section (4),—

(i) for the words beginning with "the reasonable requirements" and ending with "not been satisfied," the words "the demand for the patented article in Mysore is not being met to an adequate extent and on reasonable terms" shall be substituted; and

(ii) for the words "the reasonable requirements of the public will not be satisfied" the words "the demand will not be adequately met" shall be substituted;

(*c*) in sub-section (5),—

(i) for the words "the reasonable requirements of the public shall not be deemed to have been satisfied" the words "the demand for a patented article shall not be deemed to have been met to an adequate extent and on reasonable terms" shall be substituted;

(ii) in clause (a) the words beginning with " or the demand " and ending with " reasonably met " shall be omitted; and

(iii) in clause (b) the words " before or after the commencement of this Act " shall be omitted;

(*d*) sub-section (6) shall be omitted.

17. In section 23 of the said Act,—

(*a*) in sub-section (1), for the words " for the revocation of the patent " the words " for relief under this section " shall be substituted; and

Amendment of Section 23, Act III of 1925.

(*b*) in sub-section (2)—

(i) after the words " an order " and before the word " revoking " the letter and bracket "(a)" shall be inserted; and

(ii) after clause (ii) the following shall be added, namely :—

(*b*) " or ordering the patentee to grant a licence to the applicant which may be a licence exclusive to him or otherwise as the Government may direct."

18. After section 23 of the said Act, the following section shall be inserted, namely :—

Insertion of new Section 23 A in Act III of 1925.

" 23A. An order of the High Court under Section 22 or of the Government under Section 22 or Section 23 directing the grant of any licence shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a licence and executed by the patentee and all other necessary parties."

Operation of order under Section 22 or Section 23.

19. In clause (g) of sub-section (1) of section 26 of the said Act, before the words " a part " wherever they occur, the words " the whole or " shall be inserted.

Amendment of Section 26, Act III of 1925.

20. In sub-section (1) of Section 34 of the said Act, for the words " either of " the word " all " shall be substituted.

Amendment of Section 34, Act III of 1925.

21. After section 34 of the said Act, the following section shall be inserted, namely :—

Insertion of new Section 34A in Act III of 1925.

" 34A. Notwithstanding anything contained in Section 19, if the Court in any action for infringement of a patent finds that any one or more of the claims in the specification in respect of which the infringement is alleged are valid, it may, subject to its discretion as to costs and as to the date from which damages should be reckoned

Grant of relief in respect of particular claims.

and to such terms as to amendment as it may deem desirable, grant relief in respect of any of such claims which are infringed without regard to the invalidity of any other claim in the specification. In exercising such discretion the Court may take into consideration the conduct of the parties in inserting such invalid claims in the specification or permitting them to remain there."

Amendment of Section 35, Act III of 1925.

22. In section 35 of the said Act,

(i) for the words " to be the patentee of an invention " the words " to have an interest in a patent " shall be substituted :—

(ii) for the words " any legal rights of the person making such threats " the words " the patent " shall be substituted, and

(iii) in the proviso, for the words beginning with " if the person " and ending with the words " this patent " the words " if an action for infringement of the patent is commenced and prosecuted with due diligence " shall be substituted.

Section 41

Amendment of Section 41, Act III of 1925.

23. In section 41 of the said Act,

(i) in clause (a) for the word " and " the word "or" shall be substituted,

(ii) after clause (b) the following proviso shall be added, namely,

" Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from previous registration."

Insertion of new Sections 48A and 48B. in Act III of 1925.

24. After section 48 of the said Act, the following sections shall be inserted, namely :—

Cancellation of Registration.

" 48A. (1) Any person interested may present a petition for the cancellation of the registration of a design—

(*a*) at any time after the registration of the design to the High Court on any of the following grounds, namely :—

(i) that the design has been previously registered in Mysore; or

(ii) that it has been published in Mysore prior to the date of registration; or

(iii) that the design is not a new or original design; or

(*b*) within one year from the date of the registration, to the Controller on either of the grounds specified in sub-clauses (i) and (ii) of clause (*a*).

(2) An appeal shall lie from any order of the Controller under this Section to the High Court, and the Controller may at any time refer any such petition to the High Court, and the High Court shall decide any petition so referred.

Registration of design to bind the Government.

48B. The provisions of section 21 shall apply to registered designs as if those provisions were re-enacted herein and in terms made applicable to registered designs."

Amendment of Section 59, Act III of 1925

25. Clause (*b*) of section 59 of the said Act shall be omitted.

Substitution of new section for Section 60, Act III of 1925.

26. For section 60 of the said Act, the following section shall be substituted namely:—

"60. (1) Where a person becomes entitled by assignment, transmission or other operation of law to a patent or to the copyright in a registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, register him as the proprietor of such patent or design, and shall cause an entry to be made in the prescribed manner in the register of the assignment, transmission or other instrument affecting the title.

(2) Where any person becomes entitled as mortgagee, licensee or otherwise to any interest in a patent or registered design he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be, with particulars of the instrument, if any, creating such interest.

(3) The person registered as the proprietor of a patent or design, shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the patent or design and to give effectual receipts for any consideration for any such assignment, license or dealing:

Provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other moveable property.

(4) Except in the case of an application made under section 61, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-sections (1) and (2) shall not be admitted in evidence in any court in proof of the title to a patent or to copyright in a design or to any interest therein, unless the Court, for reasons to be recorded in writing, otherwise directs."

Amendment of Section 61, Act III of 1925.

27. In section 61 of the said Act

(*a*) in sub-section (1) for the words "The High Court" the words "The Controller" and for the words "as it may think fit" the words "as he thinks fit" shall be substituted;

(*b*) in sub-section (2) for the word "Court" the word "Controller" shall be substituted;

(*c*) for sub-section (3) the following sub-section shall be substituted, namely:—

"(3) An appeal shall lie to the High Court from any order of the Controller under this section; and the Controller may refer any application under this section to the High Court for decision, and the High Court shall dispose of any application so referred"

and (*d*) after sub-section (4) the following sub-section shall be inserted, namely:—

"(5) Nothing in this section shall be deemed to empower the Controller—

(*a*) to rectify the register of patents, or to decide any question relating to a patent, otherwise than for the purpose of correcting a mistake of fact apparent from a reference either to the patent itself or to some order of a competent authority made under any other provision of this Act, or

(*b*) to make any such order cancelling the registration of a design, as is provided for in section 48 A".

Amendment of Section 66, Act III of 1925.

28. Section 66 of the said Act shall be re-numbered as sub-section (1) of that section and to that sub-section as so re-numbered ~~that~~ following sub-section shall be added, namely:—

"(2) An appeal shall lie to the Government from an order of the Controller under this section."

Amendment of Section 67, Act III of 1925.

29. In sub-sections (1) and (2) of section 67 of the said Act, for the word "two" the word "three" shall be substituted.

Insertion of new section 70A in Act III of 1925.

30. After section 70 of the said Act, the following section shall be inserted namely :—

"70-A. *Security for costs.*—Where a person giving notice of any opposition under this Act or giving notice to the Court of Appeal from any decision of the Controller under this Act, neither resides nor carries on business in Mysore, the Controller or the Court, as the case may be, may require such person to give security for the payment of all costs incurred and likely to be incurred in the proceedings or appeal, as the case may be, and, in default of such security being given, may disallow the opposition or dismiss the appeal".

Amendment of Section 75, Act III of 1925.

31. In section 75 of the said Act.—

(*a*) in sub-section (1) after the words "the other State" and before the words "shall be entitled" the words "or his legal representative or assignee" shall be inserted;

(*b*) in proviso (*a*) to sub-section (1) for the word "four" the word "six" shall be substituted.

Substitution of a new schedule for the existing schedule to Act III of 1925.

The following schedule shall be substituted for the schedule to the said Act :—

The Schedule.

(See Section 54)

Fees.	Rs.
On application for a patent ...	10
Before sealing a patent ...	30
Before the expiration of the 4th year from the date of the patent	50
Before the expiration of the 5th year from the date of the patent	50
Before the expiration of the 6th year from the date of the patent	50
Before the expiration of the 7th year from the date of the patent	50
Before the expiration of the 8th year from the date of the patent	100
Before the expiration of the 9th year from the date of the patent	100
Before the expiration of the 10th year from the date of the patent	100

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Fees.	Rs.
Before the expiration of the 11th year from the date of the patent	100
Before the expiration of the 12th year from the date of the patent	150
Before the expiration of the 13th year from the date of the patent	150
Before the expiration of the 14th year from the date of the patent	150
Before the expiration of the 15th year from the date of the patent	150
Provided that fees for two or more years may be paid in advance.	
On application to extend the term of a patent ...	50
Before the expiration of each year of the extended term of a patent or of a new patent granted under section 15	150
On application for registration of a design ...	3

Statement of objects and reasons.

The Mysore Inventions and Designs Act, III of 1925 was based on the Indian Patents and Designs Act, II of 1911. The Indian Patents and Designs Act, II of 1911 has been since amended in 1920, 1923, 1927 and 1930 to suit the changed conditions of the industrial development of the country. It is necessary to bring the Mysore Act into line with the British Indian Act. According to British Indian Act, the term of a Patent which was 14 years prior to 1930 has since been extended to 16 years. As a result, the renewal fees have been enhanced and the schedule of fees has been suitably amended. It is desirable to adopt the same scale of fees in Mysore also. Section 78A of the Indian Patents and Designs Act of 1911, as amended by Act VII of 1930, admits of reciprocal arrangements being made with Indian States and recognises the rights of the legal representatives and assignees of the British Indian applicants to claim priority. Section 75 of the Mysore Act relating to reciprocal arrangements has to be similarly amended.

The amendments proposed are with a view to bring the Mysore Act into conformity with the British Indian Act.

Printed by the Superintendent at the Government Press, Bangalore.

NOTIFICATION.

No. 990--L. C., Bangalore, dated the 22nd November 1938.

Under Rule 8 of the rules for the conduct of business of the Mysore Legislative Council, the accompanying Bill to amend the Patents and Designs Act, 1925, is published for general information with the statement of objects and reasons.

By Order,
A. SUNDARARAJA RAO,
Secretary,
Mysore Legislative Council.

Bill to amend the Patents and Designs Act, 1925.

Whereas it is expedient to amend the Patents and Designs Act, 1925; it is hereby enacted as follows:—

1. This Act may be called the Mysore Patents and Designs (amendment) Act, 193 . Short Title.

2. In section 2 of the Mysore Patents and Designs Act, 1925, hereinafter referred to as the said Act,— Amendment of Section 2, Act III of 1925.

(*a*) for clause (4), the following clause shall be substituted, namely:—

"(4) 'design' means only the features of shape, configuration, pattern or ornament, applied to any article, by any industrial process or means whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but does not include any mode or principle of construction or anything which is in substance a mere mechanical device and does not include any trade mark as defined in section 478 or property mark as defined in section 479 of the Indian Penal Code as in force in Mysore."

(*b*) for clause (10) the following clause shall be substituted, namely:—

"(10) 'patentee' means the person for the time being entered on the register of patents kept under this Act as the grantee or proprietor of the patent,"

(*c*) in clause (12), after the words "proprietor of a new," the word "or" shall be substituted for the word "and."

Amendment of Section 5, Act III of 1925.

3. In section 5 of the said Act,—

(*a*) in sub-section (1),—

(i) in clause (*b*) the words "or relate to more than one invention" shall be omitted:

(ii) the following clause shall be inserted after clause (*e*), namely:—

"or (*f*) the specification relates to more than one invention;" and

(iii) at the end of section 5(1), the following proviso shall be inserted:—

"Provided that, when a specification comprises more than one invention, the application shall, if the controller or the applicant, so requires, be restricted to one invention and the other inventions may be made the subject-matter of fresh applications; and any such fresh application shall be proceeded with as a substantive application, but the controller may, in his discretion, direct that any such fresh application made before the acceptance of the original application, shall bear the date of the original application or such later date as he may fix, and the fresh application shall be deemed, for the purposes of this Act, to have been made on the date which it bears in accordance with such direction"; and

(*b*) in sub-section (4), the following proviso shall be substituted for the existing proviso, namely:—

"Provided that where, before or within three months after the expiration of the said period of twelve months a request is made to the controller for an extension of time by any period not exceeding three months, the application shall, on payment of the prescribed fee, be continued or revived, as the case may be, during but not beyond, the period of extension so requested."

Omission of Section 8, Act III of 1925.

4. Section 8 shall be omitted.

Amendment of Section 9, Act III of 1925.

5. In section 9 of the said Act, in sub-sections (1) and (2), for the words "three months" the words "four months" shall be substituted.

6. In section 10 of the said Act :— Amendment of Section 10, Act III of 1925.

(*a*) after sub-section (1) the following sub-section shall be inserted, namely :—

"(1-A) Notwithstanding anything contained in sub-section (1) where :

(*a*) an applicant has agreed in writing that on the grant to him of a patent he will assign it to another party or to a joint applicant and refuses to proceed with the application, or

(*b*) disputes arise between joint applicants as to proceeding with an application,

the controller, if he is satisfied of the existence of such agreement, or in any other case, that any joint applicant or applicants ought to be allowed to proceed alone, may direct that such other party or joint applicant or applicants may proceed with the application accordingly and may grant a patent to him or them as the case may be :

Provided that—

(i) the controller shall not give any such direction until every party interested has had an opportunity of being heard by him, and

(ii) an appeal from any such direction shall lie to the Government."

(*b*) in sub-section (2).—

(i) in clause (*b*) of the proviso, the words "or, by a reference under section 8" shall be omitted,

(ii) for clause (*d*) of the proviso, the following clause shall be substituted, namely :—

"(*d*) where for any reason a patent cannot sealed within the period allowed by any of the foregoing provisions of this section, that period may, on payment of the prescribed fee and on compliance with the prescribed conditions, be extended to the extent applied for but not exceeding three months."

7. In the proviso to section 11 of the said Act, for the words "the publication of the specification" the words "the advertisement of the acceptance of the application" shall be substituted. Amendment of Section 11, Act III of 1925.

Amendment of section 13, Act III of 1925.

8. In section 13 of the said Act, for sub-section (2), the following sub-section shall be substituted, namely :—

"(2) where a patent has been revoked by the High Court on the ground that it has been obtained in fraud of the true and first inventor, or where the grant of a patent has been refused by the controller under section 9 on the ground stated in clause (a) of sub-section (1) of that section, the controller may, on the application of the true inventor or his legal representative or assignee made in accordance with the provisions of this Act, grant to him a patent for the whole or any part of the invention, and the patent so granted shall bear the same date as the patent so revoked or, in the case of a patent the grant of which has been refused, the same date as would have been borne by the patent if it has been granted :

Provided that no suit shall be brought for any infringement of the patent so granted committed before the actual date when such patent was granted."

Amendment of section 14, Act III of 1925.

9. In section 14 of the said Act,—

(*a*) in sub-section (1), for the words "fourteen years" the words "sixteen years" shall be substituted ;

(*b*) after sub-section (1), the following sub-sections shall be inserted, namely :—

"(1-A) Any patent, the original term of which had not expired on or before the first day of..... .....193 , shall have effect as if the term mentioned therein was sixteen years instead of fourteen years, and any licence existing at that date which has been granted for the term of the patent shall be treated as having been granted for the term as so extended if the licensee so desires.

(1-B) Where any party to a contract with the patentee or any other person entered into before the first day of .....193 , is subjected to loss or liability by reason of the extension of the term of any patent under this section, any District Court having jurisdiction, may determine in what manner and by which parties such loss or liability shall be borne."

(*c*) for the proviso in sub-section (2), the following proviso shall be substituted, namely :—

"Provided that where the patentee, before, or within three months after the expiration of the time for payment, applies to the controller for an extension of time by any period not exceeding three months, the patent shall, on payment of such additional fee as may be prescribed, be continued or revived, as the case may be, during, but not beyond, the period of extension applied for."

Amendment of Section 15, Act III of 1925.

10. In section 15 of the said Act—

(*a*) in sub-section (1),—

(i) the words "after advertising in the prescribed manner his intention to do so" shall be omitted, and

(ii) after the words "prescribed fee," the words "and must be advertised by the patentee within the prescribed time and in the prescribed manner" shall be added;

(*b*) in sub-section (2), after the word "may" and before the words "give notice," the words "within such time as may be prescribed and on payment of the prescribed fee" shall be inserted;

(*c*) in sub-section (6), for the words "seven" and "fourteen," the words "five" and "ten" shall be substituted.

Insertion of new section 15-A in Act III of 1925.

11. After section 15, the following section shall be inserted, namely:—

"15-A. (1) Where a patent for an invention has been applied for or granted, and the applicant or the patentee, as the case may be, applies for a further patent in respect of any improvement in or modification of the invention, he may in his application for the further patent request that the term limited in that patent for the duration thereof be the same as that of the original patent or so much of that term as is unexpired, and if he does so, a patent (hereinafter referred to as a patent of addition) may be granted for such term as aforesaid.

(2) Save as otherwise expressly provided by this Act, a patent of addition shall remain in force as long as the patent for the original invention remains in force, but

no longer, and in respect of a patent of addition no fees shall be payable for renewal:

Provided that if the patent for the original invention is revoked, then the patent of addition shall, if the authority by which it is revoked so orders, become an independent patent, and the fees payable, and the dates when they become payable, shall be determined by its date, but its duration shall not exceed the unexpired term of the patent for the original invention;

(3) The grant of a patent of addition shall be conclusive evidence that the invention is a proper subject for a patent of addition, and the validity of the patent shall not be questioned on the ground that the invention ought to have been the subject of an independent patent."

Amendment of Section 18, Act III of 1925.

12. In section 18 of the said Act, after the word "disclaimer" and before the words "in such manner," the words "correction or explanation" shall be inserted.

Amendment of Section 19, Act III of 1925.

13. In section 19 of the said Act, for the words "before the disclaimer, correction or explanation," the words "before the date of the decision allowing the amendment" shall be substituted.

Amendment of Section 20, Act III of 1925.

14. In sub-section (4) of section 20 of the said Act, the words beginning with "and, unless" and ending with "affecting a patent" shall be omitted.

Substitution of new section for Section 21, Act III of 1925.

15. For section 21 of the said Act, the following sections shall be substituted, namely:—

"21 (1) subject to the other provisions of this section, a patent shall have to all intents the like effect as against the Government of Mysore as it has against a subject.

(2) The officers or authorities administering any department of the service of the Government of Mysore may, by themselves or by such of their agents, contractors or others as may be authorised in writing by them, at any time after the application, and after giving notice to the applicant or patentee, make, use or exercise the invention for the service of the Government on such terms as may, either before or after the use thereof, be agreed on, with the approval of the Government, between such officers or authorities and the applicant or patentee, or in default of agreement as may be settled in the manner hereinafter provided. And the terms of any agreement or licence concluded between the applicant or patentee and any

person other than such officers or authorities, shall be inoperative as far as concerns the making, use or exercise of the invention for the service of the Government.

(3) Where an invention which is the subject of any patent has, before the date of the patent, been duly recorded in a document by, or tried by or on behalf of, the officers or authorities administering any department of the service of the Government (such invention not having been communicated directly or indirectly by the applicant or patentee) such officers or authorities, or such of their agents, contractors or others, as may be authorised in writing by them, may, after giving notice to the applicant or patentee, make, use or exercise the invention so recorded or tried for the service of the Government, free of any royalty or other payment to the applicant or patentee, notwithstanding the existence of the patent. If, in the opinion of such officers or authorities, the disclosure to the applicant or patentee as the case may be, of the document recording the invention or the evidence of the trial thereof, if required, would be detrimental to the public interest, it may be made confidentially to counsel on behalf of the applicant or patentee, or to any independent expert mutually agreed upon.

(4) In the event of any dispute as to the making, use or exercise of an invention under this section, or the terms therefor, or as to the existence or scope of any record or trial as aforesaid, the matter shall be referred to the High Court for decision, who shall have power to refer the whole matter or any question or issue of fact arising thereon to be tried before a special or official referee or an arbitrator upon such terms as it may direct. The Court, referee or arbitrator, as the case may be, may, with the consent of the parties, take into consideration the validity of the patent for the purposes only of the reference and for the determination of the issues between the applicant or patentee and such officers or authorities. The Court, referee or arbitrator, further, in settling the terms as aforesaid, shall be entitled to take into consideration any benefit or compensation which the applicant or patentee, or any other person interested in the patent, may have received directly or indirectly from the Government or from such officers or authorities in respect of such patent :

Provided that, if the inventor or patentee is a Government servant and the subject matter of the invention is certified by the Government, to be connected with work done in the course of such service, any such dispute shall be settled by the Government after hearing the applicant or patentee and any other person having an interest in the invention or patent.

(5) The right to use an invention for the services of the Government under the provisions of this section, or any provisions for which this section is substituted, shall include and shall be deemed always to have included, the power to sell any articles made in pursuance of such right which are no longer required for the services of the Government.

(6) Nothing in this section shall affect the right of the Government or of any person deriving title directly or indirectly from the Government to sell or use any articles forfeited under any law for the time being in force relating to excise.

Amendment of Section 22, Act III of 1925.

16. In section 22 of the said Act.—

(*a*) in sub-section (1) for the words beginning with reasonable requirements" and ending with the words "satisfied" the words "the demand for a patented article in Mysore is not being met to an adequate extent and on reasonable terms" shall be substituted;

(*b*) in sub-section (4),—

(i) for the words beginning with "the reasonable requirements" and ending with "not been satisfied," the words "the demand for the patented article in Mysore is not being met to an adequate extent and on reasonable terms" shall be substituted; and

(ii) for the words "the reasonable requirements of the public will not be satisfied" the words "the demand will not be adequately met" shall be substituted;

(*c*) in sub-section (5),—

(i) for the words "the reasonable requirements of the public shall not be deemed to have been satisfied" the words "the demand for a patented article shall not be deemed to have been met to an adequate extent and on reasonable terms" shall be substituted;

(ii) in clause (a) the words beginning with " or the demand " and ending with " reasonably met " shall be omitted; and

(iii) in clause (b) the words " before or after the commencement of this Act " shall be omitted;

(*d*) sub-section (6) shall be omitted.

17. In section 23 of the said Act,—

Amendment of Section 23, Act III of 1925.

(*a*) in sub-section (1), for the words " for the revocation of the patent " the words " for relief under this section " shall be substituted; and

(*b*) in sub-section (2)—

(i) after the words " an order " and before the word " revoking " the letter and bracket "(a)" shall be inserted; and

(ii) after clause (ii) the following shall be added, namely :—

(*b*) " or ordering the patentee to grant a licence to the applicant which may be a licence exclusive to him or otherwise as the Government may direct."

Insertion of new Section 23 A in Act III of 1925.

18. After section 23 of the said Act, the following section shall be inserted, namely :—

Operation of order under Section 22 or Section 23.

" 23A. An order of the High Court under Section 22 or of the Government under Section 22 or Section 23 directing the grant of any licence shall, without prejudice to any other method of enforcement, operate as if it were embodied in a deed granting a licence and executed by the patentee and all other necessary parties."

Amendment of Section 26, Act III of 1925.

19. In clause (g) of sub-section (1) of section 26 of the said Act, before the words " a part " wherever they occur, the words " the whole or " shall be inserted.

Amendment of Section 34, Act III of 1925.

20. In sub-section (1) of Section 34 of the said Act, for the words " either of " the word " all " shall be substituted.

Insertion of new Section 34A in Act III of 1925.

21. After section 34 of the said Act, the following section shall be inserted, namely :—

Grant of relief in respect of particular claims.

" 34A. Notwithstanding anything contained in Section 19, if the Court in any action for infringement of a patent finds that any one or more of the claims in the specification in respect of which the infringement is alleged are valid, it may, subject to its discretion as to costs and as to the date from which damages should be reckoned

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and to such terms as to amendment as it may deem desirable, grant relief in respect of any of such claims which are infringed without regard to the invalidity of any other claim in the specification. In exercising such discretion the Court may take into consideration the conduct of the parties in inserting such invalid claims in the specification or permitting them to remain there."

Amendment of Section 35, Act III of 1925.

22. In section 35 of the said Act

(i) for the words "to be the patentee of an invention" the words "to have an interest in a patent" shall be substituted :—

(ii) for the words "any legal rights of the person making such threats" the words "the patent" shall be substituted, and

(iii) in the proviso, for the words beginning with "if the person" and ending with the words "this patent" the words "if an action for infringement of the patent is commenced and prosecuted with due diligence" shall be substituted.

Amendment of Section 41, Act III of 1925.

23. In section 41 of the said Act,

(i) in clause (a) for the word "and" the word "or" shall be substituted,

(ii) after clause (b) the following proviso shall be added, namely,

"Provided that such subsequent registration shall not extend the period of copyright in the design beyond that arising from previous registration."

Insertion of new Sections 48A and 48B. in Act III of 1925.

24. After section 48 of the said Act, the following sections shall be inserted, namely :—

Cancellation of Registration.

"48A. (1) Any person interested may present a petition for the cancellation of the registration of a design—

(*a*) at any time after the registration of the design to the High Court on any of the following grounds, namely :—

(i) that the design has been previously registered in Mysore; or

(ii) that it has been published in Mysore prior to the date of registration; or

(iii) that the design is not a new or original design; or

(*b*) within one year from the date of the registration, to the Controller on either of the grounds specified in sub-clauses (i) and (ii) of clause (*a*).

(2) An appeal shall lie from any order of the Controller under this Section to the High Court, and the Controller may at any time refer any such petition to the High Court, and the High Court shall decide any petition so referred.

Registration of design to bind the Government.

48B. The provisions of section 21 shall apply to registered designs as if those provisions were re-enacted herein and in terms made applicable to registered designs."

Amendment of Section 59, Act III of 1925

25. Clause (*b*) of section 59 of the said Act shall be omitted.

Substitution of new section for Section 60, Act III of 1925.

26. For section 60 of the said Act, the following section shall be substituted namely:—

"60. (1) Where a person becomes entitled by assignment, transmission or other operation of law to a patent or to the copyright in a registered design, he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, register him as the proprietor of such patent or design, and shall cause an entry to be made in the prescribed manner in the register of the assignment, transmission or other instrument affecting the title.

(2) Where any person becomes entitled as mortgagee, licensee or otherwise to any interest in a patent or registered design he may make application to the Controller to register his title, and the Controller shall, on receipt of such application and on proof of title to his satisfaction, cause notice of the interest to be entered in the prescribed manner in the register of patents or designs, as the case may be, with particulars of the instrument, if any, creating such interest.

(3) The person registered as the proprietor of a patent or design, shall, subject to the provisions of this Act and to any rights appearing from the register to be vested in any other person, have power absolutely to assign, grant licenses as to, or otherwise deal with, the patent or design and to give effectual receipts for any consideration for any such assignment, license or dealing:

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Provided that any equities in respect of the patent or design may be enforced in like manner as in respect of any other moveable property.

(4) Except in the case of an application made under section 61, a document or instrument in respect of which no entry has been made in the register in accordance with the provisions of sub-sections (1) and (2) shall not be admitted in evidence in any court in proof of the title to a patent or to copyright in a design or to any interest therein, unless the Court, for reasons to be recorded in writing, otherwise directs."

Amendment of Section 61, Act III of 1925.

27. In section 61 of the said Act

(*a*) in sub-section (1) for the words "The High Court" the words "The Controller" and for the words "as it may think fit" the words "as he thinks fit" shall be substituted;

(*b*) in sub-section (2) for the word "Court" the word "Controller" shall be substituted;

(*c*) for sub-section (3) the following sub-section shall be substituted, namely:—

"(3) An appeal shall lie to the High Court from any order of the Controller under this section; and the Controller may refer any application under this section to the High Court for decision, and the High Court shall dispose of any application so referred"

and (*d*) after sub-section (4) the following sub-section shall be inserted, namely:—

"(5) Nothing in this section shall be deemed to empower the Controller—

(*a*) to rectify the register of patents, or to decide any question relating to a patent, otherwise than for the purpose of correcting a mistake of fact apparent from a reference either to the patent itself or to some order of a competent authority made under any other provision of this Act, or

(*b*) to make any such order cancelling the registration of a design, as is provided for in section 48 A"

Amendment of Section 66, Act III of 1925.

28. Section 66 of the said Act shall be re-numbered as sub-section (1) of that section and to that sub-section as so re-numbered the following sub-section shall be added, namely:—

"(2) An appeal shall lie to the Government from an order of the Controller under this section."

Amendment of Section 67, Act III of 1925.

29. In sub-sections (1) and (2) of section 67 of the said Act, for the word "two" the word "three" shall be substituted.

Insertion of new section 70A in Act III of 1925.

30. After section 70 of the said Act, the following section shall be inserted namely :—

"70-A. *Security for costs.*—Where a person giving notice of any opposition under this Act or giving notice to the Court of Appeal from any decision of the Controller under this Act, neither resides nor carries on business in Mysore, the Controller or the Court, as the case may be, may require such person to give security for the payment of all costs incurred and likely to be incurred in the proceedings or appeal, as the case may be, and, in default of such security being given, may disallow the opposition or dismiss the appeal".

Amendment of Section 75, Act III of 1925.

31. In section 75 of the said Act.—

(*a*) in sub-section (1) after the words "the other State" and before the words "shall be entitled" the words "or his legal representative or assignee" shall be inserted;

(*b*) in proviso (*a*) to sub-section (1) for the word "four" the word "six" shall be substituted.

Substitution of a new schedule for the existing schedule to Act III of 1925.

The following schedule shall be substituted for the schedule to the said Act :—

The Schedule.

(See Section 54)

Fees.	Rs.
On application for a patent ...	10
Before sealing a patent ...	30
Before the expiration of the 4th year from the date of the patent	50
Before the expiration of the 5th year from the date of the patent	50
Before the expiration of the 6th year from the date of the patent	50
Before the expiration of the 7th year from the date of the patent	50
Before the expiration of the 8th year from the date of the patent	100
Before the expiration of the 9th year from the date of the patent	100
Before the expiration of the 10th year from the date of the patent	100

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Fees.	Rs.
Before the expiration of the 11th year from the date of the patent	100
Before the expiration of the 12th year from the date of the patent	150
Before the expiration of the 13th year from the date of the patent	150
Before the expiration of the 14th year from the date of the patent	150
Before the expiration of the 15th year from the date of the patent	150
Provided that fees for two or more years may be paid in advance.	
On application to extend the term of a patent ...	50
Before the expiration of each year of the extended term of a patent or of a new patent granted under section 15	150
On application for registration of a design ...	3

Statement of objects and reasons.

The Mysore Inventions and Designs Act, III of 1925, was based on the Indian Patents and Designs Act, II of 1911. The Indian Patents and Designs Act, II of 1911 has been since amended in 1920, 1923, 1927 and 1930 to suit the changed conditions of the industrial development of the country. It is necessary to bring the Mysore Act into line with the British Indian Act. According to British Indian Act, the term of a Patent which was 14 years prior to 1930 has since been extended to 16 years. As a result, the renewal fees have been enhanced and the schedule of fees has been suitably amended. It is desirable to adopt the same scale of fees in Mysore also. Section 78A of the Indian Patents and Designs Act of 1911, as amended by Act VII of 1930, admits of reciprocal arrangements being made with Indian States and recognises the rights of the legal representatives and assignees of the British Indian applicants to claim priority. Section 75 of the Mysore Act relating to reciprocal arrangements has to be similarly amended.

The amendments proposed are with a view to bring the Mysore Act into conformity with the British Indian Act.

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